

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**CLOUDLAND STATION**

Upon recording, please return to:

M. Maxine Hicks, Esq.  
EPSTEIN BECKER & GREEN, P.C.  
Resurgens Plaza  
945 East Paces Ferry Road, Suite 2700  
Atlanta, Georgia 30326  
[www.ebglaw.com](http://www.ebglaw.com)

**TABLE OF CONTENTS**

|  | <b><u>Page</u></b> |
|--|--------------------|
| ARTICLE 1: DEFINITIONS.....                        | 1                  |
| 1.1 “Additional Property”.....                     | 1                  |
| 1.2 “ARB”.....                                     | 2                  |
| 1.3 “Area of Common Responsibility”.....           | 2                  |
| 1.4 “Articles of Incorporation” or “Articles”..... | 2                  |
| 1.5 “Builder”.....                                 | 2                  |
| 1.6 “By-Laws”.....                                 | 2                  |
| 1.7 “Cloudland Station”.....                       | 2                  |
| 1.8 “Common Area”.....                             | 2                  |
| 1.9 “Common Expenses”.....                         | 2                  |
| 1.10 “Community-Wide Standard”.....                | 2                  |
| 1.11 “Conservation Trust”.....                     | 2                  |
| 1.12 “Cost Sharing Agreement”.....                 | 2                  |
| 1.13 “Days”.....                                   | 3                  |
| 1.14 “Declarant”.....                              | 3                  |
| 1.15 “Declaration” or “Town Covenants”.....        | 3                  |
| 1.16 “Design Guidelines”.....                      | 3                  |
| 1.17 “Detention Facility”.....                     | 3                  |
| 1.18 “Development Period”.....                     | 3                  |
| 1.19 “Exclusive Common Area”.....                  | 3                  |
| 1.20 “General Assessment”.....                     | 3                  |
| 1.21 “Governing Documents”.....                    | 3                  |
| 1.22 “Lodge”.....                                  | 4                  |
| 1.23 “Lot”.....                                    | 4                  |
| 1.24 “Majority”.....                               | 4                  |
| 1.25 “Master Plan”.....                            | 4                  |
| 1.26 “Member” or “Citizen”.....                    | 4                  |
| 1.27 “Mortgage”.....                               | 4                  |
| 1.28 “Mortgagee”.....                              | 4                  |
| 1.29 “Occupant”.....                               | 4                  |
| 1.30 “Open Space”.....                             | 4                  |
| 1.31 “Owner”.....                                  | 5                  |
| 1.32 “Person”.....                                 | 5                  |
| 1.33 “Private Facility”.....                       | 5                  |
| 1.34 “Properties”.....                             | 5                  |
| 1.35 “Public Records”.....                         | 5                  |
| 1.36 “Special Assessment”.....                     | 5                  |
| 1.37 “Specific Assessment”.....                    | 5                  |
| 1.38 “Supplemental Declaration”.....               | 5                  |
| 1.39 “Town Association” or “Association”.....      | 5                  |
| 1.40 “Town Council” or “Council”.....              | 5                  |
| ARTICLE 2: PROPERTY RIGHTS.....                    | 5                  |
| 2.1 Common Area.....                               | 5                  |
| 2.2 Private Streets.....                           | 6                  |
| 2.3 Exclusive Common Area.....                     | 7                  |
| 2.4 No Partition.....                              | 7                  |
| 2.5 Condemnation.....                              | 8                  |

|  |   |    |
|--|---|----|
| 2.6  | View Impairment .....                                       | 8  |
| 2.7  | Lease Agreement .....                                       | 8  |
| ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS .....              |   | 9  |
| 3.1  | Membership .....  | 9  |
| 3.2  | Voting .....  | 9  |
| ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION ..... |   | 10 |
| 4.1  | Function of Town Association .....                          | 10 |
| 4.2  | Personal Property and Real Property for Common Use .....    | 10 |
| 4.3  | Enforcement .....   | 10 |
| 4.4  | Implied Rights; Town Council Authority .....                | 11 |
| 4.5  | Indemnification .....                                       | 12 |
| 4.6  | Dedication of or Grant of Easements on Common Area .....    | 12 |
| 4.7  | Security .....  | 12 |
| 4.8  | Restricted Access Fence and Gates .....                     | 12 |
| 4.9  | Trails .....  | 13 |
| 4.10   | Relationship With Tax-Exempt Organizations .....            | 13 |
| 4.11   | Provision of Services .....                                 | 13 |
| 4.12   | Presence and Management of Wildlife and Natural Areas ..... | 13 |
| 4.13   | Lake .....  | 14 |
| ARTICLE 5: MAINTENANCE .....                               |   | 15 |
| 5.1  | Town Association's Responsibility .....                     | 15 |
| 5.2  | Owner's Responsibility .....                                | 17 |
| 5.3  | Standard of Performance .....                               | 17 |
| 5.4  | Party Walls, Driveways and Similar Structures .....         | 17 |
| 5.5  | Cost Sharing Agreements .....                               | 18 |
| ARTICLE 6: INSURANCE AND CASUALTY LOSSES .....             |   | 19 |
| 6.1  | Town Association Insurance .....                            | 19 |
| 6.2  | Owners' Insurance .....                                     | 21 |
| 6.3  | Limitation of Liability .....                               | 21 |
| ARTICLE 7: ANNEXATION AND WITHDRAWAL OF PROPERTY .....     |   | 22 |
| 7.1  | Annexation by Declarant .....                               | 22 |
| 7.2  | Annexation by Membership .....                              | 22 |
| 7.3  | Withdrawal of Property .....                                | 22 |
| 7.4  | Additional Covenants and Easements .....                    | 22 |
| 7.5  | Maximum Number of Parcels .....                             | 23 |
| 7.6  | Amendment .....   | 23 |
| ARTICLE 8: ASSESSMENTS .....                               |   | 23 |
| 8.1  | Creation of Assessments .....                               | 23 |
| 8.2  | Computation of General Assessments .....                    | 24 |
| 8.3  | Reserve Budget .....  | 25 |
| 8.4  | Special Assessments .....                                   | 25 |
| 8.5  | Specific Assessments .....                                  | 25 |
| 8.6  | Lien for Assessments .....                                  | 26 |
| 8.7  | Date of Commencement of Assessments .....                   | 26 |
| 8.8  | Failure to Assess .....                                     | 27 |

|                                      |   |    |
|--------------------------------------|---|----|
| 8.9                                  | Exempt Property .....   | 27 |
| 8.10                                 | Transfer Fee .....  | 27 |
| 8.11                                 | Contributions by Declarant .....                                    | 27 |
| ARTICLE 9: AESTHETIC STANDARDS ..... |   | 28 |
| 9.1                                  | General .....   | 28 |
| 9.2                                  | Architectural Review .....  | 28 |
| 9.3                                  | Guidelines and Procedures .....                                     | 29 |
| 9.4                                  | Specific Guidelines and Restrictions .....                          | 31 |
| 9.5                                  | Construction Period .....   | 33 |
| 9.6                                  | Stop Work Orders; Construction Delays .....                         | 33 |
| 9.7                                  | No Waiver of Future Approvals .....                                 | 33 |
| 9.8                                  | Variance .....  | 34 |
| 9.9                                  | Limitation of Liability .....                                       | 34 |
| 9.10                                 | Enforcement .....   | 34 |
| ARTICLE 10: USE RESTRICTIONS .....   |   | 35 |
| 10.1                                 | General .....   | 35 |
| 10.2                                 | Rules and Regulations .....   | 35 |
| 10.3                                 | Occupants Bound .....   | 35 |
| 10.4                                 | Leasing .....   | 35 |
| 10.5                                 | Residential Use .....   | 36 |
| 10.6                                 | Occupancy of Unfinished Dwellings .....                             | 37 |
| 10.7                                 | Vehicles .....  | 37 |
| 10.8                                 | Private Streets .....   | 37 |
| 10.9                                 | Use of Common Area .....  | 37 |
| 10.10                                | Animals and Pets .....  | 38 |
| 10.11                                | Nuisance .....  | 38 |
| 10.12                                | Storage of Materials, Garbage, and Dumping .....                    | 39 |
| 10.13                                | Combustible Liquid .....  | 39 |
| 10.14                                | Guns .....  | 39 |
| 10.15                                | Subdivision of Lot .....  | 39 |
| 10.16                                | Sight Distance at Intersections .....                               | 39 |
| 10.17                                | Drainage and Grading .....  | 40 |
| 10.18                                | Irrigation .....  | 40 |
| 10.19                                | Streams .....   | 40 |
| 10.20                                | Lakes, Ponds and Other Water Bodies .....                           | 40 |
| 10.21                                | Wetlands .....  | 41 |
| 10.22                                | Conservation Area .....   | 41 |
| 10.23                                | Registered Sex Offenders .....                                      | 41 |
| ARTICLE 11: EASEMENTS .....          |   | 42 |
| 11.1                                 | Easements of Encroachment .....                                     | 43 |
| 11.2                                 | Easements for Utilities, Etc. ....                                  | 43 |
| 11.3                                 | Easement for Slope Control, Drainage and Waterway Maintenance ..... | 44 |
| 11.4                                 | Easements to Serve Additional Property .....                        | 44 |
| 11.5                                 | Easement for Entry .....  | 44 |
| 11.6                                 | Easements for Maintenance and Enforcement .....                     | 45 |
| 11.7                                 | Easement for Hiking and Pedestrian Trail Access .....               | 45 |
| 11.8                                 | Easements for Lake and Pond Maintenance and Flood Water .....       | 45 |
| 11.9                                 | Lateral Support .....   | 46 |

|                                       |  |    |
|---------------------------------------|--|----|
| 11.10                                 | Easements for Private Facilities.....  | 46 |
| 11.11                                 | Easement for Special Events.....   | 47 |
| 11.12                                 | Rights to Stormwater Runoff, Effluent and Water Reclamation.....             | 47 |
| 11.13                                 | Easement for Greenbelt Maintenance.....                                      | 47 |
| 11.14                                 | Easement for Lake Access.....  | 47 |
| 11.15                                 | Liability for Use of Easements.....  | 48 |
| ARTICLE 12: MORTGAGEE PROVISIONS..... |  | 48 |
| 12.1                                  | Notices of Action.....   | 48 |
| 12.2                                  | No Priority.....   | 48 |
| 12.3                                  | Notice to Town Association.....  | 48 |
| 12.4                                  | Failure of Mortgagee to Respond.....   | 48 |
| 12.5                                  | Construction of Article 12.....  | 49 |
| ARTICLE 13: DECLARANT’S RIGHTS.....   |  | 49 |
| 13.1                                  | Transfer or Assignment.....  | 49 |
| 13.2                                  | Development and Sales.....   | 49 |
| 13.3                                  | Improvements to Common Areas.....  | 49 |
| 13.4                                  | Additional Covenants.....  | 49 |
| 13.5                                  | Right of the Declarant to Disapprove Actions.....                            | 50 |
| 13.6                                  | Amendments.....  | 50 |
| ARTICLE 14: PRIVATE FACILITIES.....   |  | 51 |
| 14.1                                  | General.....   | 51 |
| 14.2                                  | Conveyance of Private Facilities.....  | 51 |
| 14.3                                  | View Impairment.....   | 51 |
| 14.4                                  | Cost Sharing Agreements.....   | 51 |
| 14.5                                  | Use Restrictions.....  | 51 |
| 14.6                                  | Limitations on Amendments.....   | 52 |
| 14.7                                  | Jurisdiction and Cooperation.....  | 52 |
| ARTICLE 15: GENERAL PROVISIONS.....   |  | 52 |
| 15.1                                  | Duration.....  | 52 |
| 15.2                                  | Amendment.....   | 52 |
| 15.3                                  | Severability.....  | 53 |
| 15.4                                  | Fair Housing Amendments Act.....   | 53 |
| 15.5                                  | Dispute Resolution.....  | 54 |
| 15.6                                  | Litigation.....  | 54 |
| 15.7                                  | Non-Merger.....  | 54 |
| 15.8                                  | Grants.....  | 54 |
| 15.9                                  | Cumulative Effect; Conflict.....   | 54 |
| 15.10                                 | Use of the “Cloudland Station” or “Firefly Communities” Names and Logos..... | 55 |
| 15.11                                 | Compliance.....  | 55 |
| 15.12                                 | Notice of Sale or Transfer of Title.....                                     | 55 |
| 15.13                                 | Exhibits.....  | 55 |

## **TABLE OF EXHIBITS**

### **Exhibit**

### **Subject Matter**

“A”

Land Initially Submitted

“B”

Additional Property

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

### FOR

### CLOUDLAND STATION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Cloudland Station (“Declaration”) is made as of the date set forth on the signature page hereof by Firefly Communities, LLC, a Georgia limited liability company (the “Declarant”).

Declarant is the owner of the real property described on Exhibit “A,” which is attached and incorporated by reference. This Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance of such plan, this Declaration provides for the creation of Cloudland Station Town Association, Inc. to own, operate and maintain Common Areas and to administer and enforce the provisions of this Declaration, the By-Laws, and the Design Guidelines (capitalized terms are defined in Article 1 below).

Cloudland Station is based upon a novel concept that Firefly Communities, LLC has labeled a Privately Owned Recreation Town (PORT™). At its most fundamental level, a PORT™ is a small group of families enjoying their own private recreation town, surrounding acreage and amenities in a family friendly and family sensitive culture. Families become Citizens of the town by purchasing a Lot in the town. As the Declarant, Firefly Communities, LLC desires to create this family friendly and family sensitive culture through a very thoughtful set of covenants, conditions and restrictions that results in families coming together at Cloudland Station on a frequent basis to enjoy each other, the amenities, and the beautiful and natural setting of Cloudland Station. Firefly Communities, LLC also hopes to encourage reflection on Biblical principles of stewardship regarding nature and community assets and being a good neighbor.

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

This document does not and is not intended to create a condominium within the meaning of O.C.G.A. §44-3-70, *et seq.* nor a property owners’ development within the meaning of O.C.G.A. §44-3-220, *et seq.*

### ARTICLE 1: DEFINITIONS

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

1.1 “Additional Property”: All of that certain real property which is more particularly described on Exhibit “B”, which is attached and incorporated herein by this reference, and which real property is subject to annexation to the terms of this Declaration in accordance with Article 7.

1.2 “ARB”: The Architectural Review Board, as described in Section 9.2.

1.3 “Area of Common Responsibility”: The Common Area, together with any additional areas for which the Town Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, any Cost Sharing Agreement, or other applicable covenant, contract, or agreement.

1.4 “Articles of Incorporation” or “Articles”: The Articles of Incorporation of Cloudland Station Town Association, Inc. as filed with the Secretary of State of the State of Georgia, as they may be amended.

1.5 “Builder”: Any Person who purchases one (1) or more Lots for the purpose of constructing improvements thereon for later sale to consumers or who purchases one (1) or more parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person’s business or who enters into a construction contract with an Owner of a Lot for the construction of a residential dwelling. Any Person occupying or leasing a Lot for residential purposes shall cease to be considered a Builder with respect to such Lot immediately upon occupancy of the Lot for residential purposes, notwithstanding that such Person originally purchased the Lot for the purpose of constructing improvements for later sale to consumers.

1.6 “By-Laws”: The By-Laws of Cloudland Station Town Association, Inc., as they may be amended.

1.7 “Cloudland Station”: That certain residential community located in Walker County, Georgia and commonly known and referred to as Cloudland Station.

1.8 “Common Area”: All real and personal property, including easements and licenses, which the Town Association owns, leases or holds possessory or use rights in for the common use, benefit, and enjoyment of the Owners. The term also shall include any Exclusive Common Area, as defined below.

1.9 “Common Expenses” The actual and estimated expenses incurred, or anticipated to be incurred, by the Town Association for the general benefit of all Owners, including any reasonable reserve, as the Town Council may find necessary and appropriate pursuant to the Governing Documents.

1.10 “Community-Wide Standard”: The cultural and visual standard for design, construction and maintenance as well as community conduct and activities generally prevailing throughout the Properties. Such standard shall initially be established by the Declarant and may be more specifically determined by the Town Council and the ARB. A prevailing cultural attribute of this standard will be that it is a family friendly and family sensitive culture and that it encourages a reflection on Biblical principles of stewardship regarding nature and community assets and of being a good neighbor. A prevailing visual attribute will be building and landscape architecture that is consistent with that found in the surrounding region during the period from 1700 to 1920.

1.11 “Conservation Trust”: One or more nonprofit entities that may be designated by the Declarant that: (i) own or control all or a portion of the Open Space; and/or (ii) are qualified to hold conservation easements within conservation areas as described in Section 10.22, as such conservation easements are recorded or will be recorded in the Public Records.

1.12 “Cost Sharing Agreement”: Any agreement, contract or covenant between the Town Association and an owner or operator of property adjacent to, in the vicinity of, or within the Properties,



including any Private Facility, for the allocation of expenses for amenities and/or services that benefit both the Town Association and the owner or operator of such property.

1.13 “Days”: Calendar days; provided however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

1.14 “Declarant”: Firefly Communities, LLC, a Georgia limited liability company or any successor, successor-in-title, or assign who holds or takes title to any portion of the property described on Exhibits “A” or “B” for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided however, there shall be only one (1) Person entitled to exercise the rights and powers of the “Declarant” hereunder at any time.

1.15 “Declaration” or “Town Covenants”: This instrument as it may be amended and supplemented.

1.16 “Design Guidelines”: The design, architectural, and construction guidelines and the application and review procedures for all structures, hardscaping and landscaping on all or any portion of the Properties promulgated and administered pursuant to Article 9. The Design Guidelines must be consistent with and must foster the Community-Wide Standard as defined.

1.17 “Detention Facility”: Any area within the Properties serving as a detention structure or facility, including but not limited to berms, swales or any facility designated as a “detention pond” or a “proposed detention facility” on a recorded plat of all or any portion of the Properties.

1.18 “Development Period”: The period of time during which the Declarant (a) owns any property which is subject to this Declaration, any Additional Property, or any Private Facility, (b) is a Member of the Town Association, or (c) has the unilateral right to subject Additional Property to this Declaration pursuant to Section 7.1; provided, however, the Development Period shall not terminate prior to the time when one hundred percent (100%) of the total number of Lots permitted by the Master Plan for the property described on Exhibits “A” and “B have certificates of occupancy issued thereon by the controlling governmental authority, have been conveyed to Persons other than the Declarant or a Builder, and initial vertical construction on each Lot is complete. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period upon an earlier date by recording a written instrument in the Public Records.

1.19 “Exclusive Common Area”: A portion of the Common Area intended for the exclusive use or primary benefit of one (1) or more, but less than all, Lots, as more particularly described in Article 2.

1.20 “General Assessment”: Assessments levied on all Lots subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 8.1 and 8.2.

1.21 “Governing Documents”: The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, all Design Guidelines, the rules of the Town Association, all Cost Sharing Agreements, and all additional covenants governing any portion of the Properties or any of the above, as each may be supplemented and amended from time to time.

1.22 “Lodge”: Any portion of the Common Area designated as a lodge by the Declarant and which may be used for overnight stays in accordance with the rules and regulations adopted by the Town Association.

1.23 “Lot”: A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Lot as well as any improvements thereon. The term shall include within its meaning, by way of illustration but not limitation, single-family detached houses on separately platted lots as well as vacant land intended for development as such, but shall not include property owned by the Town Association, or property dedicated to the public.

In the case of an unplatted parcel of land, the parcel shall be deemed to be a single Lot until such time as a subdivision plat is filed with respect to all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Lots determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

1.24 “Majority”: Those votes, Owners, Members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

1.25 “Master Plan”: The land use plan or development plan for Cloudland Station and designated as the “Conceptual Master Plan of Cloudland Station,” as such plan may be amended from time to time, which plan includes the property described on Exhibit “A” and all or a portion of the Additional Property described on Exhibit “B” that Declarant may from time to time anticipate subjecting to this Declaration. Exclusion of property described on Exhibit “B” from the Master Plan shall not bar its later annexation in accordance with Article 7. Except as provided herein, the Declarant shall not be bound by any Master Plan, use or restriction of use shown on any Master Plan, and may, in its sole discretion and from time to time, change or revise the Master Plan, develop or not develop the remaining undeveloped property or Common Area or amenities shown on any Master Plan. Notwithstanding the above, all present and future references to the Master Plan shall refer to the then latest version of the Master Plan prepared for the Declarant.

1.26 “Member” or “Citizen”: A Person subject to membership in the Town Association pursuant to Section 3.1.

1.27 “Mortgage”: A mortgage, a deed of trust a deed to secure debt, or any other form of security instrument affecting title to any Lot.

1.28 “Mortgagee”: A beneficiary or holder of a Mortgage.

1.29 “Occupant”: The Owner of any Lot and such Owner’s family members, agents, tenants, independent contractors, invitees and licensees or any other Person who either lawfully or unlawfully occupies or comes upon such Lot. All actions or omissions of any Occupant shall be deemed the actions or omissions of the Owner of such Lot.

1.30 “Open Space”: That portion of the Properties depicted on the Master Plan, including any forestry land and water, that is in its undeveloped natural state, or that has been developed only to the extent consistent with, or is restored to be consistent with, one or more following goals: (a) water protection for streams and lakes; (b) flood protection; (c) wetlands production; (d) reduction of erosion through protection of steep slopes, areas with edible soils, and stream banks; (e) protection of riparian

buffers and other areas that serve as natural habitat and corridors for native plants and animal species; (f) scenic protection; (g) protection of archaeological and historic resources; (h) provision of recreation in the form of boating, hiking, fishing, running, jogging, biking walking, and similar outdoor activities; and (i) connection of existing or planned areas contributing to the goals set forth in this Section.

1.31 “Owner”: One (1) or more Persons who hold the record title to any Lot, including the Declarant and any Builders, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is owned by more than one (1) Person, all such Persons shall be jointly and severally obligated to perform the responsibilities of such Owner.

1.32 “Person”: A natural person, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.

1.33 “Private Facility”: Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties which are owned and operated, in whole or in part, by Persons other than the Town Association for civic, social, recreational, worship, business, or other purposes. Any Private Facility shall be designated by the Declarant in its sole discretion. The use of the term “Private Facility” shall not be construed to imply or require a private club. Private Facilities may include a church or chapel. A Private Facility may be operated on a use fee, daily fee, club membership, public, or private basis or otherwise as determined in the sole discretion of the owner of such facility.

1.34 “Properties”: The real property described on Exhibit “A” as such exhibit may be amended or supplemented from time to time to reflect any additions or removal of property in accordance with Article 7.

1.35 “Public Records”: The Clerk of the Superior Court of Walker County, Georgia or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real estate in the Properties.

1.36 “Special Assessment”: Assessments levied in accordance with Section 8.4.

1.37 “Specific Assessment”: Assessments levied in accordance with Section 8.5.

1.38 “Supplemental Declaration”: An instrument filed in the Public Records which subjects Additional Property to this Declaration, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.39 “Town Association” or “Association”: Cloudland Station Town Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

1.40 “Town Council” or “Council”: The body responsible for administration of the Town Association, selected as provided in the By-Laws and serving as the board of directors under Georgia corporate law.

## **ARTICLE 2: PROPERTY RIGHTS**

2.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to and shall pass with the title to each Lot, subject to:

- (a) This Declaration and all other Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Town Association;
- (c) The right of the Town Council to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area, including rules limiting the number of invitees who may use the Common Area;
- (d) The right of the Town Council to rent, lease or reserve any portion of the Common Area to any Owner for the exclusive use of such Owner and his or her respective lessees, invitees, and guests upon such conditions as may be established by the Town Council;
- (e) The right of the Town Council to suspend the right of an Owner to use any recreational and social facilities within the Common Area and Exclusive Common Area pursuant to Section 4.3;
- (f) The right of the Town Council to impose reasonable requirements and charge reasonable admission or other use fees for the use of any facility situated upon the Common Area, including but not limited to any Lodge;
- (g) The right of the Town Council to permit use of any facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of reasonable use fees, if any, established by the Town Council;
- (h) The right of the Town Association, acting through the Town Council, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (i) The right of the Town Association, acting through the Town Council, to dedicate or transfer all or any portion of the Common Area, subject to any approval requirements set forth in the Governing Documents;
- (j) The rights of certain Owners to the exclusive use, access and enjoyment of those portions of the Common Area designated "Exclusive Common Areas," as more particularly described in Section 2.3; and
- (k) The right of the Declarant to conduct activities and establish facilities within the Properties as provided in Article 13.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Town Council. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the lessee of such Lot; provided however, the Owner shall remain responsible for payment of all assessments and other charges.

2.2 Private Streets. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to, over and across any private streets and roads within the Properties ("Private Streets"), whether or not such Private Streets are Common Area, for the purpose of ingress and egress to public rights-of-way. The rights and nonexclusive easements granted herein are appurtenant to the title to each Lot, subject to:

- (a) This Declaration and all other Governing Documents;
- (b) The right of the Declarant, so long as the Declarant owns the Private Streets, to adopt, amend and repeal rules regulating the use and enjoyment of the Private Streets, provided that the Declarant shall not by the adoption of any rule or regulation bar access of the Owners across the Private Streets;
- (c) The right of the Declarant to dedicate all or any part of Private Streets;
- (d) The right of the Declarant to mortgage, pledge, or hypothecate any or all of the Private Streets as security for money borrowed or debts incurred, provided that the Declarant shall not subject the Private Streets to any security instrument without obtaining the agreement of the lender to subordinate its interest in the Private Streets to the easements for the Owners contained in this Section; and
- (e) The rights of the Declarant and the Town Association to maintain the Private Streets.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable.

2.3 Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and Occupants of specified Lots. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed against the Owners of Lots to which the Exclusive Common Areas are assigned as a Specific Assessment.

During the Development Period, any Exclusive Common Area shall be designated as such, and the exclusive use thereof shall be assigned, in the deed by which the Common Area is conveyed to the Town Association, or in this Declaration, or any Supplemental Declaration and/or on the subdivision plat relating to such Common Area. Any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Lots during the Development Period. Following the termination of the Development Period, a portion of the Common Area may be assigned as Exclusive Common Area of particular Lots and Exclusive Common Area may be reassigned upon approval of the Town Council and the vote of Members holding a Majority of the total Class "A" votes in the Town Association, including, if applicable, a Majority of the Class "A" votes allocated to the Lot(s) to which the Exclusive Common Area is assigned, if previously assigned, and a Majority of Class "A" votes allocated to the Lot(s) to which the Exclusive Common Area is to be assigned or reassigned. Any reassignment of an Exclusive Common Area shall be set forth in a Supplemental Declaration executed by the Declarant and/or the Town Council, as appropriate, or shall be shown on a revised subdivision plat relating to such Exclusive Common Area.

The Town Association may, upon approval of a Majority of the Class "A" votes to which any Exclusive Common Area is assigned, permit Owners of Lots to use all or a portion of such Exclusive Common Area upon payment of reasonable use fees, which fees shall be used to offset the Specific Assessments attributable to such Exclusive Common Area.

2.4 No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration.

This Section shall not prohibit the Town Council from acquiring and disposing of other real property which may or may not be subject to this Declaration.

2.5 Condemnation. The Town Association shall be the sole representative with respect to condemnation proceedings concerning Common Area and shall act as attorney-in-fact for all Owners in such matters. Whenever any part of the Common Area shall be taken by or conveyed under threat of condemnation to any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance. The Town Council may convey Common Area under threat of condemnation only if approved by Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Town Association and, during the Development Period, the written consent of the Declarant. The award made for such taking or proceeds of such conveyance shall be payable to the Town Association.

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Town Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) Days after such taking, Members holding at least sixty-seven percent (67%) of the total Class "A" votes of the Town Association and, during the Development Period, the Declarant shall otherwise agree. Any such construction shall be in accordance with plans approved by the Town Council and the ARB. The provisions of Section 6.1(c) regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds may be used by the Town Association for such purposes as the Town Council shall determine.

2.6 View Impairment. Neither the Declarant nor the Town Association guarantees or represents that any view from Lots over and across the Common Area or any Open Space, including any lake, will be preserved without impairment. The Town Association shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in its sole discretion, to add trees and other landscaping or to install improvements or barriers (both natural and artificial) to the Common Area or any Open Space from time to time. Any such additions or changes may diminish or obstruct any view from the Lots and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Each Owner, by acceptance of a deed, acknowledges that any view from the Lot as of the date of the purchase of the Lot may be impaired or obstructed by the natural growth of existing landscaping, the installation of additional trees, other landscaping or other types of improvements or barriers (both natural and artificial) on the Common Area or any Open Space.

2.7 Lease Agreement. The Declarant and the Town Association shall have the right to create and enter into a short term or long term lease agreement for the lease, use, operation, maintenance and management of Common Areas. Any Owner using any leased facility shall do so at his/her own risk and hereby holds Declarant and its successors and assigns, and the Town Association harmless from and against any claim or loss arising from such use. Neither Declarant or its successors and assigns, the Association nor any of their respective officers, directors, committee members, employees, management agents, contractors or subcontractors (collectively, the "Listed Parties") shall be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of the leased facility. The Listed Parties shall not be liable or responsible for maintaining or assuring the safety of any individuals using the leased facility or any horses or any such other animals being housed in the leased facility, except as such responsibility may be specifically be imposed by law. Further, none of the Listed Parties shall be liable for any and all losses, claims, damages (compensatory, consequential, punitive, or

otherwise), injuries, or deaths, and expenses of whatever nature or kind, including, without limitation, legal costs, occurring in, or otherwise related to the use of the leased facility or adjacent property.

### **ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS**

3.1 Membership. Every Owner shall be a Member of the Town Association. There shall be only one (1) membership per Lot. If a Lot is owned by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable Town Council regulation and the restrictions on voting set forth in Section 3.2(a) and in the By-Laws. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee of such Owner, or by any individual designated from time to time by the Owner in a written instrument provided to the secretary of the Town Association.

3.2 Voting. The Town Association shall have two (2) classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Each Class "A" Member shall have one (1) equal vote for each Lot in which he or she holds the interest required for membership under Section 3.1; provided however, there shall be only one (1) vote per Lot and no vote shall be exercised for any property which is exempt from assessment under Section 8.9. If there is more than one (1) Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the secretary of the Town Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it. No vote shall be exercised on behalf of any Lot if any assessment for such Lot is delinquent.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint the members of the Town Council until the first to occur of the following:

(i) twenty-five (25) years after the date of the recording of this Declaration in the Public Records; or

(ii) when, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right.

At such time, the Class "B" membership shall terminate, and the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Lot which it owns. After termination of the Class "B" membership, the Declarant shall have a right to disapprove certain actions of the Town Council, the ARB, and committees as provided in Section 13.5 of the Declaration.

(c) Additional Classes of Membership. The Declarant may, by Supplemental Declaration and without approval of the Owners create additional classes of membership, with such rights, privileges and obligations as may be specified in such Supplemental Declaration. Such additional classes of membership may be either voting or non-voting classes of membership. For example, the Declarant may in its discretion create a non-voting Class "C" membership for owners of property in other communities developed by Declarant.

## **ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

4.1 Function of Town Association. The Town Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility and all improvements thereon. The Town Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Town Council may adopt pursuant to Article 10. The Town Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Georgia. Until such time as the Town Association is incorporated, all rights, powers and obligations of the Town Association and the Council shall be vested with the Declarant.

4.2 Personal Property and Real Property for Common Use. The Town Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees, with the Declarant's prior written consent, may convey to the Town Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B," personal property and leasehold and other property interests. Such property shall be accepted by the Town Association and thereafter shall be maintained by the Town Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Town Association. Declarant shall not be required to make any improvements or repairs whatsoever to property to be conveyed and accepted pursuant to this Section including, without limitation, dredging or otherwise removing silt from any lake, pond or other body of water that may be conveyed. During the Development Period, the Town Association shall reconvey to Declarant any portions of the Properties originally conveyed by Declarant to the Town Association for no consideration upon written request of Declarant.

The Town Association agrees that the Common Area, including all improvements thereon, shall be conveyed in its "where is, as is" condition and without recourse, and Declarant disclaims and makes no representations, warranties or other agreements express or implied with respect thereto, including without limitation, representations or warranties of merchantability or fitness for the ordinary or any particular purpose, and representations or warranties regarding the conditions, design, construction, accuracy, completeness, adequacy of the size or capacity in relation to utilization or the future economic performance or operations of the Common Area. No claim shall be made by the Town Association or any Owner relating to the condition, operation, or completeness of the Common Area or for incidental or consequential damages arising therefrom. Declarant will transfer and assign to the Town Association, without recourse, all warranties which it receives from manufacturers and suppliers relating to any of the Common Area which exist and are assignable.

4.3 Enforcement. The Town Council or any committee established by the Town Council, with the Town Council's approval, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in Section 3.23 of the By-Laws. Such sanctions may include, without limitation:

- (a) imposing monetary fines which shall constitute a lien upon the Lot of the violator;
- (b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;
- (c) suspending an Owner's right to vote;



(d) suspending any Person's right to use any recreational facilities within the Common Area and any part of the Exclusive Common Area; provided however, nothing herein shall authorize the Town Council to limit ingress or egress to or from a Lot; and

(e) suspending any services provided by the Town Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) Days delinquent in paying any assessment or other charge owed to the Town Association.

In the event that any Occupant, guest or invitee of a Lot violates the Governing Documents, the Town Council or any committee established by the Town Council, with the Town Council's approval, may sanction such Occupant, guest or invitee and/or the Owner of the Lot that the violator is occupying or visiting. If a fine is imposed, the fine may first be assessed against the Occupant; provided however, if the fine is not paid by the Occupant within the time period set by the Town Council, the Owner shall pay the fine upon notice from the Town Council.

In addition, the Town Council, or the covenants committee if established, may elect to enforce any provision of the Governing Documents by exercising self-help (specifically including, but not limited to, the filing of liens in the Public Records for non-payment of assessments and other charges, the towing of vehicles that are in violation of parking rules, the removal of pets that are in violation of pet rules, or the correction of any maintenance, construction or other violation of the Governing Documents) without the necessity of compliance with the procedures set forth in the By-Laws. The Town Association may also levy Specific Assessments to cover all costs incurred in exercising self-help and in bringing a Lot into compliance with the terms of the Governing Documents without the necessity of compliance with the procedures set forth in the By-Laws.

The Town Association may also elect to enforce any provisions of the Governing Documents by suit at law to recover monetary damages or in equity to enjoin any violation or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Town Association to enforce the provisions of the Governing Documents, if the Town Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys fees and court costs, incurred in such action, regardless of whether suit is filed and including any appeals.

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

The Town Association, by contract or other agreement, may enforce county, city, state and federal laws and ordinances, if applicable, and permit local and other governments to enforce laws and ordinances on the Properties for the benefit of the Town Association and its Members.

4.4 Implied Rights; Town Council Authority. The Town Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided

in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Town Association may be exercised by the Town Council without a vote of the membership.

4.5 Indemnification. The Town Association shall indemnify every officer, Council member, ARB member and committee member against all damages, liabilities, and expenses, including reasonable attorneys fees, incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Town Council) to which he or she may be a party by reason of being or having been an officer, Council member, ARB member or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation and Georgia law.

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

4.6 Dedication of or Grant of Easements on Common Area. The Town Association may dedicate or grant easements across portions of the Common Area to Walker County, Georgia, or to any other local, state, or federal governmental or quasi-governmental entity, or to any public or private utility company.

4.7 Security. Each Owner and Occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Properties. The Town Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Town Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measure, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such system or security measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. No representation or warranty is made that the lighting facilities or systems (including the placement thereof) will adequately illuminate or attempt to adequately illuminate all of the Common Areas, or that such facilities or systems will be designed with safety measures in mind. Each Owner acknowledges, understands and covenants to inform its tenants and all Occupants of its Lot that the Town Association, its Town Council and committees, Declarant, and any successor Declarant are not insurers or guarantors of safety and security within the Properties and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

4.8 Restricted Access Fence and Gates. Access to all or any portion of the Properties may, at the Declarant's or Town Council's sole discretion, be restricted by a fence and one or more gates located along the perimeter of the Properties. Vehicular access into the Properties may be restricted by

electronically operated or other controlled access entry gates located at the entrances into the Properties, and pedestrian access may be restricted by pedestrian gates at other points as well. The restricted access gates may or may not be staffed, at the discretion of the Declarant or Town Council. Any such gate staffing may be modified or eliminated at any time without notice. The use and operation of any restricted access fence and gate may be limited or eliminated from time to time by the Declarant or the Town Council.

4.9 Trails. The Declarant reserves for itself, its successors and assigns, and the Town Association, the right to designate certain areas within the Properties, including the Common Area, to be used as recreational, hiking and pedestrian pathways and trails (“trail system”). Each Owner acknowledges, understands and covenants to inform the Occupants of such Owner’s Lot, that the Properties may contain a trail system and that there may be certain inconveniences and loss of privacy associated with the ownership of Lots adjacent to such trail system resulting from the use of the trail system by the Declarant, the Town Association, its Members, their tenants, Occupants, guests and invitees.

4.10 Relationship With Tax-Exempt Organizations. The Declarant or the Town Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area, or convey portions of the Common Area, to non-profit, tax-exempt organizations, including any Conservation Trust, for the benefit of the Properties. The Declarant reserves the right to be the full beneficiary of any tax benefits resulting from such grants or conveyances. The Town Association may contribute money, real or personal property or services to any such entity. Any such contribution shall be a Common Expense and included as a line item in the Town Association’s annual budget. For the purposes of this Section a “tax-exempt organization” shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code, including but not limited to, Sections 501(c)(3) or 501(c)(4) thereof.

4.11 Provision of Services. The Town Association may provide or contract for services and facilities for the Members of the Town Association and their guests, lessees and invitees. The Town Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Town Association may be funded by the Town Association as a Common Expense. In addition, the Town Council shall be authorized to charge use and consumption fees for services and facilities through Specific Assessments or by requiring payment at the time the service or facility is provided. As an alternative, the Town Association may arrange for the costs of the services and facilities to be billed directly to Owners by the provider(s) of such services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, garbage collection, pest control service, cable, digital, satellite or similar television service, internet, intranet, and other computer related services, security, caretaker, fire protection, utilities, and similar services and facilities. The Town Council, without the consent of the Class “A” Members of the Town Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Town Association.

4.12 Presence and Management of Wildlife and Natural Areas. The Properties may contain or may be adjacent to or in the vicinity of a number of manmade, natural, and environmentally sensitive areas, such as Open Space, wetlands, bodies of water and other natural areas. Such areas may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects, venomous and non-venomous snakes and other reptiles, bears, deer, raccoons, opossums, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and Occupant of any Lot, and every Person entering the Properties: (i) acknowledges that such plants and wildlife are

indigenous to the area and are not restrained or restricted in their movements within or through the Properties; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within the Properties. Neither the Town Association, Declarant, any Builder, nor the members, partners, affiliates, officers, directors, shareholders, attorneys, agents, or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in the Properties, nor shall they have any liability for any personal injury, illness, any other loss or damage resulting from the presence, movement, or propagation of any plant or wildlife within or through the Properties. Each Owner and Occupant of a Lot and each tenant, guest, and invitee of any Owner or Occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of such wildlife.

The Declarant, acting in its sole and absolute discretion, retains the right, but not the obligation, to engage in wildlife and fishery management plans and practices on the Properties to the extent that such practices are permitted by applicable state and federal law. For the purpose of illustration and not limitation, this includes the right to manage and control any populations of wildlife through a variety of techniques, including organized hunting, shooting, trapping, relocating, sterilization, and habitat manipulation. Declarant may, in its sole discretion, commission environmental studies and reports relating to the Properties and the wildlife habitats located thereon, and may elect to follow or disregard any recommendations resulting from such studies. The Declarant may assign these management rights to the Town Association in which event the expenses of such activities shall be funded by General Assessments.

Certain portions of the Properties, including but not limited to the Open Spaces, conservation areas, lakes, ponds, waterfalls, sinkholes, cliffs and caves, may be retained in their natural state and may be considered hazardous for recreational activities. Neither the Town Association, nor Declarant, nor any of their affiliates, has any obligation to provide security or supervision for any person using a natural area, and all Persons using such areas do so at their own risk. Insects, snakes, and animals that may be dangerous to humans may inhabit natural areas.

**OWNERS SHOULD NOT ALLOW CHILDREN OR PETS TO ENTER ANY NATURAL AREA WITHOUT ADULT SUPERVISION.**

Neither the Association nor Declarant shall have any liability whatsoever for any condition of a natural area or any injury or death occurring thereon. The Association shall have the right to impose additional rules and regulations governing or prohibiting the use of natural areas.

If any natural area, or the trees or vegetation thereon, are damaged or destroyed by fire, windstorm, flood, disease, or other natural or manmade event, neither the Association nor Declarant shall have any obligation to repair or restore the damage or destruction, or to remove any dead or damaged trees or other vegetation

4.13 Lake. Neither the Town Association, the original Declarant, nor any successor Declarant shall be held liable for any loss or damage by reason of use of any lake or pond for any purpose by Owners, their invitees, licensees, and tenants. Each Owner acknowledges, understands and covenants to inform its tenants and all Occupants of its Lot that the Town Association, its Town Council, ARB and committees, Declarant, and any successor Declarant are not insurers and that each Person using any lake or pond shall do so only in accordance with any rules adopted by the Town Council and applicable governmental laws, ordinances, rules and regulations. Each Person assumes all risks of personal injury, and loss or damage to property, including Lots, resulting from or associated with use of any lake or pond. In addition, the Town Association shall not be responsible for maintaining, increasing or decreasing the water level within any other water body or removing vegetation from any other water body. Lakes,

detention or retention ponds, or other wetlands in the Properties, may be designed as water management areas and are not necessarily designed as recreational or aesthetic features. Due to fluctuations in ground water elevations within the immediate area, the water level of lakes and waterways will rise and fall. Neither the Declarant nor the Town Association has any obligation to control such water elevations, shore features or treatments, landscaping or any other matters related to water features in the Properties.

## **ARTICLE 5: MAINTENANCE**

### 5.1 Town Association's Responsibility.

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

- (i) all Common Area;
- (ii) any Lodge and other facilities located on the Common Area;
- (iii) all Private Streets;
- (iv) all landscaping and other flora, street trees, parks, play fields, lakes, ponds, structures, and improvements, including any entry features, bridges, parking areas, log cabins, barns, town hall, sidewalks, hiking and pedestrian pathways/trails, and swimming pools situated upon the Common Area;
- (v) any perimeter fence or wall located along the boundary line of the Properties;
- (vi) all furnishings, equipment and other personal property of the Town Association;
- (vii) any landscaping and other flora, street trees, parks, hiking and pedestrian pathways/trails, sidewalks, buffers, entry features, structures and improvements within public or private rights-of-way within or abutting the Properties or upon such other public land adjacent to the Properties as deemed necessary in the discretion of the Town Council;
- (viii) such additional portions of any property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Cost Sharing Agreement, or any contract or agreement for maintenance thereof entered into by the Town Association;
- (ix) any lakes and Open Space within the Properties (provided that the Town Association may leave any lakes and Open Space in their natural state without further obligation for maintenance);
- (x) any Detention Facility or storm water management facilities serving the Properties (if not maintained by a governmental agency or located on or within a Lot);
- (xi) all ponds, lakes, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith; and

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

The Town Association may, as a Common Expense, maintain other property and improvements which it does not own or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Town Council determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. Such property and improvements may include without limitation, property dedicated to the public and certain Lots on or near focal points in Cloudland Station as determined in the sole discretion of the Town Council.

(b) The Town Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Town Council, to perform required maintenance or repairs, unless Members holding sixty-seven percent (67%) of the Class "A" votes in the Town Association and during the Development Period the Declarant agree in writing to discontinue such operation.

(c) The Town Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to an Owner or (ii) such property is dedicated to any local, state, or federal government or quasi-governmental entity; provided however, that in connection with such assumption, assignment or dedication, the Town Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Town Council determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means during the Development Period except with the written consent of the Declarant.

(d) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Lots as part of the General Assessment, without prejudice to the right of the Town Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to the Governing Documents, any recorded covenants, or any agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Specific Assessment against the particular Lots to which the Exclusive Common Areas are assigned, notwithstanding that the Town Association may be responsible for performing such maintenance hereunder. Notwithstanding the foregoing, the Council may, in its sole discretion, allocate the expense of maintenance, repair and replacement, which benefits one (1) or more, but less than all Lots, as a Specific Assessment in accordance with the benefit so received by such Lots, pursuant to Section 8.5.

(e) In the event that the Town Association fails to properly perform its maintenance responsibilities hereunder and to comply with the Community-Wide Standard, the Declarant may, upon not less than ten (10) Days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Town Association for all costs incurred.

5.2 Owner's Responsibility. Each Owner shall maintain his or her Lot, and all structures, parking areas, sprinkler and irrigation systems, landscaping and other flora, and other improvements on the Lot in a manner consistent with the Community-Wide Standard and all Governing Documents, unless such maintenance responsibility is otherwise assumed by or assigned to the Town Association. Each Owner shall also maintain the driveway and mailbox serving his or her Lot and all landscaping located in the right-of-way immediately adjacent to the Owner's Lot. Every Owner shall also be responsible for the security and safety of its Lot notwithstanding any security systems or measures which may be provided by the Town Association. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Town Association may perform such maintenance responsibilities and assess all costs incurred by the Town Association against the Lot and the Owner in accordance with Section 8.5(c). The Town Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation. Entry by the Town Association or its designee under this Section shall not constitute a trespass.

With prior written approval from the ARB, Owners may be permitted to perform limited maintenance and improvements on portions of the Common Area. For example, an Owner may be permitted to prune selected trees on Common Area to create a designated view corridor. Any maintenance or improvement performed on or to Common Areas by an Owner shall be performed in conformance with plans and specifications approved by the ARB. Such maintenance or improvement shall be at the sole expense of such Owner, and the Owner shall not be entitled to reimbursement from the Town Association, even in the Town Association accepts the maintenance or improvement.

5.3 Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all Governing Documents. The Town Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which the Town Association owns or maintains except to the extent that it has been grossly negligent in the performance of its maintenance responsibilities.

5.4 Party Walls, Driveways and Similar Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Lots which serves and/or separates any two (2) adjoining Lots shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

5.5 Cost Sharing Agreements. Adjacent to or in the vicinity of the Properties, there may be certain residential, nonresidential or recreational areas, including without limitation single family residential developments, retail, commercial, or business areas and Private Facilities, which are not subject to this Declaration and which are neither Lots nor Common Area as defined in this Declaration (hereinafter "adjacent properties"). The owners of such adjacent properties shall not be Members of the Town Association, shall not be entitled to vote, and shall not be subject to assessment under Article 8 of this Declaration.

The Town Association may enter into one (1) or more Cost Sharing Agreements with the owners or operators of portions of the adjacent properties:

(a) to grant non-exclusive permanent easements over or in favor of adjacent properties for (i) ingress and egress over the Private Streets, drives, trails and pathways, and related improvements; (ii) sewer, water, telephone, cable, gas and electric and other utility lines; and (iii) signage;

(b) to grant non-exclusive, permanent easements over and across Detention Facilities, detention ponds and related facilities for storm water drainage;

(c) to obligate the owners or operators of such adjacent properties to perform and/or to share in certain costs associated with, the maintenance, repair, replacement and insuring of portions of the Area of Common Responsibility, if any, which are used by or benefit jointly the owners or operators of such adjacent properties and the owners within the Properties;

(d) to permit use of any recreational and other facilities located on the Common Areas by the owners or operators of such adjacent properties;

(e) to permit use of any facilities located on such adjacent properties by the Owners of all Lots;

(f) to obligate the Town Association to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of such adjacent properties, if any, which are used by or benefit jointly the owners or operators of such adjacent properties and the owners within the Properties; and/or

(g) to establish rules and regulations regarding the use of areas that benefit jointly the owners or operators of such adjacent properties and the owners within the Properties.

The owners or operators of such adjacent properties shall be subject to assessment by the Town Association only in accordance with the provisions of such Cost Sharing Agreement(s). If the Town Association is obligated to share costs incurred by the owners of such adjacent properties, such payments by the Town Association shall be deemed to constitute Common Expenses of the Town Association unless the Cost Sharing Agreement provides otherwise. The owners or operators of the adjacent properties shall not be subject to the restrictions contained in this Declaration except as otherwise specifically provided herein.



## **ARTICLE 6: INSURANCE AND CASUALTY LOSSES**

### 6.1 Town Association Insurance.

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

(i) Blanket property insurance for all insurable improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Town Association and its Members;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Town Association funds; and

(vi) Such additional insurance as the Town Council, in its best business judgment, determines advisable, which may include, without limitation, flood insurance.

In the event that any portion of the Common Area is or shall become located in an area identified by the Federal Emergency Management Agency ("FEMA") as an area having special flood hazards, a "blanket" policy of flood insurance on the Common Area must be maintained in the amount of one hundred percent (100%) of current "replacement cost" of all affected improvements and other insurable property or the maximum limit of coverage available, whichever is less.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the General Assessment. In the event of an insured loss, the deductible shall be treated as a Common Expense and assessed in the same manner as the premiums for the applicable insurance coverage. However, if the Town Council reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss resulted from the negligence or willful misconduct of one (1) or more Owners, their guests, invitees, or lessees, then the Town Council may specifically assess the full amount of such deductible against such Owner(s) and their Lots pursuant to Section 8.5.

The Town Association shall have no insurance responsibility for any portion of the Private Facilities. In addition, notwithstanding the foregoing, neither the Town Association nor the Declarant shall be obligated to obtain any such insurance until such time as the Town Association is incorporated, and once formed, the Town Association may, but shall not be obligated to, obtain property or liability insurance until such time as Common Areas have been conveyed to the Town Association.

(b) Policy Requirements. The Town Association shall arrange for periodic reviews of the sufficiency of insurance coverage by one (1) or more qualified Persons, at least one (1) of whom must be familiar with insurable replacement costs in Georgia.

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 policy limits satisfy the requirements of Section 6.1(a). The Town Council will obtain insurance coverage as deemed appropriate by the Town Council. By way of example and not limitation, the Town Council may use reasonable efforts to secure insurance coverage that:

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

(ii) is written in the name of the Town Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Town Association and its Members;

(iii) is not intended to be brought into contribution with insurance purchased by Owners, Occupants, or their Mortgagees individually;

(iv) contains an inflation guard endorsement;

(v) includes an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) includes an endorsement requiring at least thirty (30) Days prior written notice to the Town Association of any cancellation, substantial modification, or non-renewal;

(vii) lists the Owners as additional insureds;

(viii) provides a waiver of subrogation as to any claims against the Town Association's Council, officers, employees, and manager, the Owners and their tenants, servants, agents, and guests;

(ix) provides a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(x) provides an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one (1) or more individual Owners, or on account of any curable defect or violation without prior written demand to the Town Association to cure the defect or violation and allowance of a reasonable time to cure;

(xi) provides an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(xii) provides a cross liability provision; and

(xiii) provides a provision vesting the Town Council with the exclusive authority to adjust losses; provided however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Damage and Destruction. In the event of any insured loss covered by insurance held by the Town Association, only the Town Council or its duly authorized agent may file and adjust insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair

or reconstruction, as used in this subsection, means repairing or restoring the property to substantially the condition existing prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Town Association, and during the Development Period the Declarant decide within sixty (60) Days after the loss either (i) not to repair or reconstruct or (ii) to construct alternative improvements.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Town Association within such sixty (60) Day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional Days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Town Association consistent with the Community-Wide Standard.

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

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Town Council may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1(a).

6.2 Owners' Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Town Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Lot, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures or landscaping on or comprising his or her Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure or landscaping consistent with the original construction or such other plans and specifications as are approved in accordance with Article 9. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

6.3 Limitation of Liability. Notwithstanding the duty of the Town Association to maintain and repair portions of the Common Area, neither the Town Association, its Town Council, its successors or assigns, nor any officer or Council member or committee member, employee, agent, contractor (including the management company, if any) of any of them shall be liable to any Member or any member of a Member's immediate household for any injury or damage sustained in the Area of Common Responsibility, the Common Area or other area maintained by the Town Association, or for any injury or damage caused by the negligence or misconduct of any Members or their family members, guests, invitees, agents, servants, contractors or lessees, whether such loss occurs in the Common Area or in individual Lots.

Each Owner, by virtue of the acceptance of title to his or her Lot, and each other Person having an interest in or right to use any portion of the Properties, by virtue of accepting such interest or right to use, shall be bound by this Section and shall be deemed to have automatically waived any and all rights, claims, demands, and causes of action against the Town Association arising from or connected with any matter for which the liability of the Town Association has been disclaimed under this Section.

## **ARTICLE 7: ANNEXATION AND WITHDRAWAL OF PROPERTY**

7.1 Annexation by Declarant. Until twenty-five (25) years after the recording of this Declaration in the Public Records, Declarant shall have the exclusive right from time to time to unilaterally subject to the provisions of this Declaration all or any portion of the Additional Property.

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

With the exception of any property designated by the Declarant as a Private Facility, all of the property shown on the Master Plan shall be subjected to this Declaration by the Declarant pursuant to this Section; provided however, Declarant reserves the right to submit such property shown on the Master Plan as phases to Cloudland Station in any sequence and at any time within twenty-five (25) years after the recording of this Declaration in the Public Records. Except as otherwise specifically set forth, nothing in this Declaration shall be construed to require the Declarant to annex or develop any of the Additional Property in any manner whatsoever. In addition to the requirements set forth in Section 15.2, this Section may be amended only with the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the total Class "A" votes in the Town Association present at any meeting held to address such an amendment, and, during the Development Period, the written consent of the Declarant.

7.2 Annexation by Membership. The Town Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members holding at least eighty percent (80%) of the Class "A" votes of the Town Association represented at a meeting duly called for such purpose, and, during the Development Period, the written consent of the Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the president and the secretary of the Town Association, and by the owner of the property being annexed, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration during the Development Period for the purpose of removing any portion of the Properties from the coverage of this Declaration, including, but not limited to any property designated as a Private Facility. Such amendment shall not require the consent of any Person other than the owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Town Association shall execute a written consent to such withdrawal.

7.4 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Properties to additional covenants and easements. Such additional covenants and

easements shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property for such purposes as deemed appropriate in the Declarant's sole discretion, including but not limited to modifications to reflect the different character and intended use of such property.

7.5 Maximum Number of Parcels. Declarant hereby represents and acknowledges that Cloudland Station will contain a maximum number of two hundred (200) parcels. For purposes of this Section only, a "parcel" shall be deemed to include any Lot that has been conveyed to a Person other than Declarant or the Town Association. In addition, any and all portions of the Properties subjected to the condominium form of ownership and subject to the jurisdiction of a single condominium association shall be treated as one (1) single "parcel" solely for purposes of this Section of the Declaration, notwithstanding the number of Lots within such parcel. This Section may be amended with the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the total Class "A" votes in the Town Association present at any meeting held to address such an amendment, and, during the Development Period, the written consent of the Declarant.

7.6 Amendment. This Article shall not be amended during the Development Period without the prior written consent of Declarant.

## **ARTICLE 8: ASSESSMENTS**

8.1 Creation of Assessments. Assessments are hereby created for Town Association expenses as the Town Council may specifically authorize from time to time. There shall be three (3) types of assessments: (a) General Assessments to fund Common Expenses for the general benefit of all Lots; (b) Special Assessments as described in Section 8.4; and (c) Specific Assessments as described in Section 8.5. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments and other charges, together with interest, late charges, costs of collection, and reasonable attorneys fees, shall be a charge and continuing lien upon each Lot against which the assessment or charge is made until paid, as more particularly provided in Section 8.6. Each such assessment or charge, together with interest, late charges, costs, and reasonable attorneys fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

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

Assessments shall be paid in such manner and on such dates as the Town Council may establish, which may include discounts for early payment or similar time/price differentials. The Town Council may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Town Council so elects, assessments may be paid in two (2) or more installments. Unless the Town Council otherwise provides,

the General Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Town Council may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the fifteenth (15th) day following the due date unless otherwise specified by Town Council resolution.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, including Exclusive Common Area reserved for such Owner's use, abandonment or leasing of such Owner's Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Town Association or Town Council to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action taken by the Town Association or Town Council.

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

8.2 Computation of General Assessments. At least thirty (30) Days before the beginning of each fiscal year, the Town Council shall prepare a budget covering the estimated Common Expenses during the coming year, which may include a contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.3. For so long as the Class "B" membership exists, Common Expenses shall not include any expenses incurred for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members holding a Majority of the total Class "A" votes of the Town Association and the Class "B" Members.

General Assessments shall be levied equally against all Lots subject to assessment.

The assessment rate shall be set at a level which is reasonably expected to produce total income for the Town Association equal to the total budgeted Common Expenses, including any reserves. In determining the level of General Assessments, the Town Council, in its discretion, may consider other sources of funds available to the Town Association, including any surplus from prior years, any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year, and any income expected to be generated from any Cost Sharing Agreement.

During the Development Period, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or contributions of services and materials, which may be treated as either a contribution or an advance against future sums due from the Declarant, or a loan, in the Declarant's discretion. The Town Council, specifically including members of the Council appointed by the Declarant, shall be authorized to execute a promissory note or notes on behalf of the Town Association to evidence the repayment obligation of the Town Association; provided however, the failure to execute such a note shall in no way diminish such obligation. Any such anticipated payment or contribution by the Declarant shall be disclosed as a line item in the Common Expense budget. Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years unless otherwise provided in a written agreement between the Town Association and the Declarant.

The Town Council shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Owner at least thirty (30) Days prior to the beginning of the

fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Town Association and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Town Council within twenty (20) Days after the date of the notice of assessments. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the proposed budget is disapproved or the Town Council fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. In such event or if the budget proves inadequate for any reason, the Town Council may prepare a revised budget for the remainder of the fiscal year. The Town Council shall send a copy of the revised budget to each Owner at least thirty (30) Days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.3 Reserve Budget. The Town Council may, in its sole discretion, annually prepare a reserve budget which takes into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. The Town Council shall include in the general budget reserve amounts sufficient to meet the projected needs of the Town Association.

8.4 Special Assessments. In addition to other authorized assessments, the Town Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Special Assessments shall be levied and allocated equally among all Lots. Any Special Assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Town Council within twenty (20) Days after the date of the notice of such Special Assessment. Special Assessments shall be payable in such manner and at such times as determined by the Town Council, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5 Specific Assessments. The Town Association shall have the power to levy Specific Assessments against a particular Lot or Lots as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot(s) or Occupants thereof upon request of the Owner pursuant to a menu of special services which the Town Council may from time to time authorize to be offered to Owners and Occupants (which might include, without limitation, landscape maintenance, garbage collection, pest control service, cable, digital, satellite or similar television service, internet, intranet, and other computer related services, security, caretaker, fire protection, utilities, and similar services and facilities, which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner);

(b) to cover the costs associated with maintenance, repair, replacement and insurance of any Exclusive Common Area assigned to one (1) or more Lots; and

(c) to cover all costs incurred in bringing the Lot(s) into compliance with the terms of the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or Occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests.

In addition, fines levied by the Town Association pursuant to Section 4.3 shall constitute Specific Assessments.

8.6 Lien for Assessments. The Town Association shall have a lien against each Lot to secure payment of assessments and other charges, as well as interest at a rate to be set by the Town Council (subject to the maximum interest rate limitations of Georgia law), late charges in such amount as the Town Council may establish (subject to the limitations of Georgia law), costs of collection and reasonable attorneys fees. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien may be enforced by suit, judgment, and judicial or nonjudicial foreclosure.

The Declarant or the Town Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Town Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment allocated to the Lot owned by the Town Association. The Town Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. A Mortgagee or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall remain the personal obligation of the owner of the Lot prior to the foreclosure, and, unless and until collected from such prior owner, shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 8.7, including such acquirer, its successors and assigns.

All other Persons acquiring liens or encumbrances on any Lot after this Declaration has been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

8.7 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the date which the Lot is conveyed to a Person other than a Builder or Declarant or January 1, 2008, whichever is later. With respect to any Lot acquired by a Builder from the Declarant, assessments shall commence for such Lot upon the earlier of (a) actual occupancy of the dwelling on such Lot, excluding any period that such dwelling is being used exclusively as a model home; or (b) one (1) year after the date of conveyance of such Lot to the Builder. Once assessments have commenced upon any Lot, the obligation to pay assessments with respect to such Lot shall not be suspended or terminated unless the Lot is reacquired by Declarant, except as otherwise provided herein. The first annual General Assessment, if any, levied on each Lot shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot and shall be due and payable at closing or, with respect to Builders, upon demand of the Town Association.



8.8 Failure to Assess. Failure of the Town Council to establish assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Town Association may retroactively assess any shortfalls in collections.

8.9 Exempt Property. The following property shall be exempt from payment of General Assessments and Special Assessments:

(a) All Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1;

(b) Any property dedicated or otherwise conveyed to and accepted by any governmental authority or public utility;

(c) Any property not subjected to the Declaration; and

(d) Any property that is owned by a Conservation Trust, charitable nonprofit corporation or public agency whose primary purposes include the acquisition and preservation of open space for public benefit and held by such agency or organization for such recreational and open space purposes.

8.10 Transfer Fee. Commencing January 1, 2008, a transfer fee shall be collected from the purchaser of each Lot equal to one hundred and fifty dollars (\$150.00); provided, however, that the transfer fee may be increased at any time and from time to time in the sole and absolute discretion of the Council. Any change in the amount of the transfer fee shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering any change in the amount of the transfer fee except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Council within twenty (20) Days after the date of the notice of such change in the amount of the transfer fee. This amount shall be collected and disbursed to the Town Association at the closing of the purchase and sale of each Lot, except as provided below. Such funds may be used by Town Association in its sole discretion. In the event of non-payment of such transfer fee, the amount due shall bear interest and shall be collectible as a Specific Assessment as set forth in Section 8.5.

8.11 Contributions by Declarant. In accordance with Section 8.2, the Declarant may support the Town Association by funding operating deficits during the Development Period. At the sole election of Declarant, Declarant may recoup from the Town Association all such payments, which amounts may be paid from the operating account of the Town Association, or from the working capital contributions collected at the sale of Lots, but not from capital reserves. Regardless of whether the Declarant recoups any other deficit amounts, it is not the intention of the Declarant to forfeit refundable reserves or deposits paid by Declarant, nor to pay for deficits created by the nonpayment of assessments by other Owners. It is also not the intention of Declarant to pay for expenses which are otherwise covered in the annual budget of the Town Association, but which, due to the requirement of an advance payment, create temporary or seasonal deficits. Accordingly, Declarant shall be reimbursed for all amounts paid by Declarant in the funding of deficits caused by the nonpayment of assessments by Owners which, if not sooner paid, shall be paid to Declarant at the time the unpaid assessment is collected. In addition, if not sooner paid, Declarant shall be reimbursed for any refundable deposit upon the Town Association's receipt of the same.

All deficits shall be collectible by Declarant at any time from the working capital contributions or from excess funds not designated for capital reserves. The Declarant shall have the right to pursue the collection of any unpaid assessments on behalf of the Town Association, as well as the right to act on behalf of the Town Association (if necessary) in obtaining refunds of all deposits paid for by Declarant. The Town Council, specifically including members of the Town Council appointed by the Declarant, shall be authorized to execute a promissory note or notes on behalf of the Town Association to evidence the repayment obligation of the Town Association; provided however, the failure to execute such a note shall in no way diminish such obligation. However, until January 1, 2008, Declarant intends to cover all deficits without recoupment of such expenses.

## **ARTICLE 9: AESTHETIC STANDARDS**

9.1 General. No exterior structure or improvement, as described in Section 9.4, shall be placed, erected, installed or made upon any Lot or any other portion of the Properties except in compliance with the Community-Wide Standard, and the provisions of this Article, and with the prior written approval of the appropriate reviewing body under Section 9.2, unless exempted from the application and approval requirements pursuant to Section 9.2(b).

Unless otherwise approved by the ARB in its sole discretion, all dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect who has either been appointed as a town architect or whose plans have been reviewed and approved as an adopted plan as provided herein. Town architects shall be appointed by the Declarant, or the ARB once established pursuant to the provisions of this Article, and must be deemed to have a strong background in historical designs for residential dwellings, as determined in the sole discretion of the Declarant or the ARB.

This Article shall not apply to the activities of the Declarant nor to improvements to the Common Area by or on behalf of the Town Association nor to improvements to any Private Facility made by or on behalf of the owner of such Private Facility.

This Article may not be amended during the Development Period without the Declarant's written consent.

9.2 Architectural Review. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties acknowledges that, as the developer of the Properties, Declarant has a substantial interest in ensuring that all structures and improvements within the Properties enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell or lease any portion of the Properties or the Additional Property. Therefore, the Declarant may, on its behalf, establish an ARB to be responsible for administration of the Design Guidelines and review of all applications for construction and modifications under this Article. In addition, the Town Council may establish the MC as set forth below. The ARB and the MC are sometimes referred to herein collectively as the reviewing bodies. The reviewing bodies shall consist of one (1) or more Persons who may, but are not required to, be Members of the Town Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the ARB. In addition, the Declarant may appoint one (1) or more town architects. The reviewing bodies may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. In addition, the reviewing bodies may require deposits while construction is pending on any Lot to ensure completion without damage to the Properties.

(a) Architectural Review Board. The ARB shall have exclusive jurisdiction over all construction, and improvements on any portion of the Properties. Until one hundred percent (100%) of the total number of Lots permitted by the Master Plan for the property described on Exhibits “A” and “B” have been developed and conveyed to Owners other than Builders and the Declarant and initial construction on each Lot has been completed in accordance with the Design Guidelines, the Declarant retains the right to appoint all members of the ARB who shall serve at the Declarant’s discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration or surrender of such right, the Town Council shall appoint the members of the ARB, who shall thereafter serve and may be removed in the Town Council’s discretion.

(b) Modifications Committee. The Town Council may establish a Modifications Committee (“MC”), all of whom shall be appointed by and shall serve at the discretion of the Town Council. If established, the MC shall have jurisdiction over modifications, additions, or alterations of Lots, including existing structures and landscaping, after completion of initial construction on the Lot. The ARB shall have the right to veto any action taken by the MC which the ARB determines, in its sole discretion, to be inconsistent with the guidelines promulgated by the ARB. Upon expiration of the Declarant’s right to appoint the members of the ARB, the MC may be eliminated and its duties assumed by the ARB.

### 9.3 Guidelines and Procedures.

(a) Design Guidelines. The Declarant shall prepare the initial Design Guidelines for the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary according to land use and from one (1) portion of the Properties to another depending upon the location, unique characteristics, and intended use. For example, by way of illustration but not limitation, the Design Guidelines may impose stricter requirements on those portions of the Properties adjacent to or visible from any Private Facility or any lake, pond, river, stream or other body of water. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the reviewing bodies in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the reviewing bodies and compliance with the Design Guidelines does not guarantee approval of any application.

The ARB shall adopt the Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only. There shall be no limitation on the scope of amendments to the Design Guidelines except that no amendment shall require the modification or removal of any structure previously approved once the approved construction or modification has commenced. The ARB is expressly authorized to amend the Design Guidelines to adopt additional restrictions, to remove requirements previously imposed, or otherwise to make the Design Guidelines less or more restrictive.

The ARB shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties.

The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the ARB. Any architectural guidelines and standards adopted by the MC may be more restrictive than the Design Guidelines, but under no circumstances shall they be inconsistent with the Design Guidelines.

(b) Procedures. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the appropriate

reviewing body for review and approval (or disapproval). In addition, information concerning septic tank drainage fields and placement, irrigation systems, drainage, lighting, grading, tree removal, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Design Guidelines. In reviewing each submission, the reviewing bodies may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other considerations and as more specifically set forth in the Design Guidelines.

Each application to the ARB shall be deemed to contain a representation and warranty by the Owner that use of the plans submitted does not violate any copyright associated with the plans. Neither the submission of the plans to the ARB, nor the distribution and review of the plans by the ARB shall be construed as publication in violation of the designer's copyright, if any. Each Owner submitting plans to the ARB shall hold the members of the ARB, the Town Association and the Declarant harmless and shall indemnify said parties against any and all damages, liabilities, and expenses incurred in connection with the review process of this Declaration.

In reviewing and acting upon any request for approval, the ARB shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Decisions may be based solely on aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time. The ARB shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and whether proposed improvements are consistent with Design Guidelines.

In the event that the ARB or MC fails to approve or to disapprove any application within forty-five (45) Days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ARB pursuant to Section 9.8.

Notwithstanding the above, the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution. Any Owner may remodel, paint or redecorate the interior of structures on his or her Lot without approval. However, modifications to the interior of screened porches, patios, windows, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

(c) Delinquent Assessments and Other Charges. Notwithstanding the provisions of subsection (b) above, any application for the approval of plans and specifications as set forth in this Article shall be deemed to be disapproved unless and until any and all delinquent assessments and other charges permitted by this Declaration have been paid current by the Owner submitting such plans and specifications for approval. Subsequent to the approval of plans and specifications pursuant to this Article, if the Owner shall become delinquent in the payment of assessments or other charges permitted by this Declaration at any time during the prosecution of the approved work, the Owner shall be deemed to be in violation of such approval and shall be subject to any means of enforcement set forth in Section 9.10 and Section 4.3.

(d) Builder and General Contractor Approval. In order to ensure that appropriate standards of construction are maintained throughout the Properties, all Builders and general contractors must be approved by the Declarant or ARB prior to engaging in any construction activities within the

Properties. The ARB may implement an approval process utilizing established criteria and requiring the submission of a written application for approval. Approval of any plans may be withheld until such time as the Owner's Builder or contractor has been approved by the ARB. Approval of a Builder or general contractor may be conditioned upon an agreement with the ARB to maintain certain insurance coverages required by the ARB, pay construction deposits to ensure completion of a project without damage to the Properties, and pay fees determined by the ARB, from time to time. Both the criteria and the application form are subject to change in the sole discretion of the ARB.

Appointment of architects, and approval of Builders and contractors may not be construed as a recommendation of a specific architect, Builder or contractor by the ARB or the Declarant, nor a guarantee or endorsement of the work of such architect, Builder or contractor. The criteria and requirements established by the ARB for architects, Builders and contractors are solely for the Declarant's protection and benefit and are not intended to provide the Owner with any form of guarantee with respect to any architect, Builder, or contractor. Owner's selection of an architect, Builder, or contractor shall be conclusive evidence that the Owner is independently satisfied with any and all concerns Owner may have about the qualifications of such architect, Builder or contractor. Furthermore, Owner waives any and all claims and rights that Owner has or may have now or in the future, against the ARB or the Declarant.

#### 9.4 Specific Guidelines and Restrictions.

(a) Exterior Structures and Improvements. Exterior structures and improvements shall include, but shall not be limited to, staking, clearing, excavation, grading and other site work; initial construction of any dwelling or accessory building; exterior alteration of existing improvements; installation or replacement of hardscape, such as driveways, walkways, or parking areas; mailboxes; basketball hoops; swing sets and similar sports and play equipment; clotheslines; garbage cans; wood piles; swimming pools; docks, piers, or boathouses; gazebos or playhouses; window air-conditioning units or fans; hot tubs; wells; solar panels; hedges, walls, dog runs, animal pens, or fences of any kind, including invisible fences; artificial vegetation, garden ornamentation, or sculpture; and planting or removal of landscaping materials.

In addition to the foregoing activities requiring prior approval, the following items are strictly regulated, and the reviewing body shall have the right, in its sole discretion, to prohibit or restrict these items within the Properties. Each Owner must strictly comply with the terms of this Section unless approval or waiver in writing is obtained from the appropriate reviewing body. The ARB may, but is not required to, adopt additional specific guidelines as part of the Design Guidelines.

(i) Signs. No sign of any kind shall be erected by an Owner or Occupant without the prior written consent of the appropriate reviewing body, except such signs as may be required by legal proceedings. Unless in compliance with this Section, no sign shall be posted or erected by any Owner or Occupant within any portion of the Properties, including the Common Area, any Lot, any structure or dwelling located on the Common Area or any Lot (if such sign would be visible from the exterior of such structure or dwelling as determined in the reviewing body's sole discretion) or within any Private Facility.

Except as provided in Section 13.2 or unless a written variance is granted pursuant to Section 9.8, no "for sale" or "for lease" signs shall be permitted within the Properties. The Declarant and the ARB reserve the right to prohibit other types of signs and to restrict the size, content, color, lettering, design and placement of any approved signs. Any approved signs must be professionally prepared and shall conform to any criteria established by the ARB. This provision shall not apply to signs installed by the Declarant or its duly authorized agent, including, but not limited to, entry, directional, informational, or

inspirational signs, signs as the Declarant may deem necessary or convenient for the marketing and development of the Properties, or other signs in the sole discretion of the Declarant.

(ii) Tree Removal. No trees that are more than four (4) inches in diameter at a point two (2) feet above the ground shall be removed or pruned without the prior written consent of the appropriate reviewing body; provided however, any trees, regardless of their diameter, that are located within five (5) feet of a drainage area, a septic field, a sidewalk, a residence, or a driveway, or any diseased or dead trees needing to be removed or pruned to promote the growth of other trees or for safety reasons may be removed without the written consent of the appropriate reviewing body. The appropriate reviewing body may adopt or impose requirements for, or condition approval of, tree removal upon the replacement of any tree removed.

(iii) Lighting. Exterior lighting visible from the street shall not be permitted except for: (1) one (1) approved decorative post light; (2) pathway lighting; (3) street lights in conformity with an established street lighting program for the Properties; (4) seasonal decorative lights during the usual and common season; (5) front house illumination of model homes; or (6) any additional lighting as may be approved by the appropriate reviewing body. All lights shall be installed or aimed so that they do not present a disabling glare to drivers or pedestrians or create a nuisance by projecting or reflecting objectionable light onto a neighboring property.

(iv) Temporary or Detached Structures. Except as may be permitted by the ARB during initial construction, or the MC thereafter, no temporary house, dwelling, garage or outbuilding shall be placed or erected on any Lot. Except as provided in Section 10.7(c), no mobile home, trailer home, travel trailer, camper or recreational vehicle shall be stored, parked or otherwise allowed to be placed on a Lot as a temporary or permanent dwelling. Notwithstanding the foregoing, tents and other camping equipment may be permitted by the Town Council in designated portions of the Properties.

(v) Accessory Structures. With the approval of the ARB, detached accessory structures may be placed on a Lot to be used for a playhouse, tool shed, dog house, garage or other approved use. Such accessory structures shall conform in exterior design and quality to the dwelling on the Lot. Except as may be provided otherwise by the ARB, an accessory structure placed on a Lot shall be located only behind the dwelling as such dwelling fronts on the street abutting such Lot or in a location approved by the ARB. All accessory structures shall be located within side and rear setback lines as may be required by the ARB or by applicable zoning law.

(vi) Antennas and Satellite Dishes. Except as permitted under applicable federal, state or local law, no satellite antenna or dish or transmission or reception antenna of any kind shall be erected, used or maintained outdoors on any portion of the Properties, whether attached to a structure or otherwise; provided, however, that the Town Association shall have the right to erect, construct and maintain such devices. Any permitted devices shall be installed in the least conspicuous location available on the Lot which permits reception of an acceptable signal and shall be installed only in accordance with Federal Communications Commission ("FCC") rules and any requirements of the ARB and the Town Association that are consistent with the rules of the FCC, as they may be amended from time to time. Except as otherwise provided by this subsection, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Properties, whether attached to a structure or otherwise; provided, however, that the Town Association shall have the right to erect, construct and maintain such devices.

(vii) Utility Lines. Overhead utility lines, including lines for cable television, are not permitted except for temporary lines as required during construction and lines installed by or at the request of Declarant.

(viii) Standard Mailboxes. All dwellings within the Properties shall have standard mailboxes conforming to postal regulations and the guidelines for such mailboxes adopted by the ARB. Application shall be made to the ARB prior to installation or replacement of a mailbox. By accepting a deed to a Lot, each Owner agrees that the ARB may remove any nonapproved mailbox in a reasonable manner; all costs for same shall be paid by Owner of such Lot, and all claims for damages caused by the ARB are waived.

9.5 Construction Period. After commencement of construction, each Owner shall diligently continue construction to complete such construction in a timely manner. The initial construction of all structures must be completed within one (1) year after commencement of construction, unless extended by the ARB in its sole discretion. All other construction shall be completed within the time limits established by the appropriate reviewing body at the time the project is approved by the reviewing body.

For the purposes of this Section, commencement of construction shall mean that (a) all plans for such construction have been approved by the ARB; (b) a building permit has been issued for the Lot by the appropriate jurisdiction; and (c) construction of a structure has physically commenced beyond site preparation. Completion of a structure shall mean that a certificate of occupancy has been issued for a dwelling on the Lot by the appropriate jurisdiction.

9.6 Stop Work Orders; Construction Delays. During special events, including but not limited to, educational, cultural, entertainment, promotional, charitable, sporting and other similar events, held, hosted or otherwise conducted within the Properties, the ARB may, and upon request of Declarant shall, issue “stop work” orders. “Stop work” orders may prohibit the commencement of or suspend the work on any architectural change, construction, addition, alteration, change, maintenance, repair, reconstruction or other work that is visible or audible from outside a Lot or that may cause an increase in traffic flow, from being performed by an Owner or Builder within the Properties. Any stop work order shall be set forth in writing, shall identify the Lots subject to the stop work order (if not applicable to all of the Properties), shall set forth the scope of the prohibited and suspended activities and shall specify the start and stop dates for such stop work order, which period of time shall not exceed seven (7) consecutive Days.

In addition, the ARB may, and upon request of Declarant shall, issue “construction delay” orders, if the ARB determines that the delay of commencement of construction activities is in the best interest and/or safety of Owners and/or the overall development of Cloudland Station. “Construction delay” orders may delay the commencement of any architectural change, construction, addition, alteration, or change that is visible or audible from outside a Lot from being performed by an Owner or Builder within the Properties. Any construction delay order shall be set forth in writing, shall identify the Lots subject to the construction delay order (if not applicable to all of the Properties), shall set forth the scope of the prohibited and suspended activities and shall specify the start and stop dates for such construction delay order, which period of time shall not exceed one hundred and twenty (120) consecutive Days. A construction delay order shall automatically extend or toll any mandatory construction commencement period applicable to the Lot(s) for which such construction delay order is issued.

9.7 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.8 Variance. The ARB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the ARB from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

9.9 Limitation of Liability. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Properties only, and shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and neither the Declarant, the Town Association, the Town Council, the ARB nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners. Neither the Declarant, the Town Association, the Town Council, the ARB or MC or any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Lot. In all matters, the committees and their members shall be defended and indemnified by the Town Association as provided in Section 4.5.

9.10 Enforcement. The Declarant, any member of the ARB, the MC or the Town Council, or the representatives of each shall have the right, during reasonable hours and after reasonable notice, to enter upon any Lot to inspect for the purpose of ascertaining whether any structure or improvement is in violation of this Article. Any structure, improvement or landscaping placed or made in violation of this Article shall be deemed to be nonconforming. Upon written notice from the ARB or MC, Owners shall, at their own cost and expense, cure any violation or nonconformance or remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to cure or remove and restore the property as required, any authorized agent of Declarant, the ARB, MC or the Town Council shall have the right to enter the property, cure or remove the violation, and restore the property to substantially the same condition as previously existed. Entry for such purposes and in compliance with this Section shall not constitute a trespass. In addition, the Town Council may enforce the decisions of the Declarant, the ARB and the MC by any means of enforcement described in Section 4.3. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Specific Assessment pursuant to Section 8.5.

Unless otherwise specified in writing by the reviewing body granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. If, after commencement, any Person fails to diligently pursue to completion all approved work, the Town Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Specific Assessment pursuant to Section 8.5.

Neither the ARB, MC or any member of the foregoing nor the Town Association, the Declarant, or their members, officers or Council members shall be held liable to any Person for exercising the rights granted by this Article. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article or the Design Guidelines may be



excluded by the ARB from the Properties, subject to the notice and hearing procedures contained in the By-Laws.

In addition to the foregoing, the Town Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARB and MC.

## **ARTICLE 10: USE RESTRICTIONS**

10.1 General. This Article sets out certain use restrictions which must be complied with by all Owners and Occupants of any Lot. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, model homes, sales offices for Declarant and/or Builders, an information center and/or a sales office for any real estate broker retained by the Declarant to assist in the sale of property described on Exhibits "A" or "B," offices for any property manager retained by the Town Association, business offices for the Declarant or the Town Association and related parking facilities) consistent with this Declaration and any Supplemental Declaration.

10.2 Rules and Regulations. In addition to the use restrictions set forth in this Article, the Town Council may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Properties. Such rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by Members holding a Majority of the total Class "A" votes in the Town Association, and, during the Development Period, the written consent of the Declarant.

10.3 Occupants Bound. All provisions of the Declaration, By-Laws, and of any rules and regulations, use restrictions or Design Guidelines governing the conduct of Owners and establishing sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned.

10.4 Leasing. In order to protect the equity of the individual Lots, to carry out the purpose for which Cloudland Station was formed by preserving the character of Cloudland Station as a homogenous residential community of predominantly Owner-occupied primary and secondary homes, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the Lots be substantially Owner-occupied, leasing of Lots shall be governed by the restrictions imposed by this Article. Except as provided herein, the leasing of Lots shall be prohibited. "Leasing" shall be deemed to mean the 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.

Notwithstanding the foregoing, Lots may be leased for residential purposes only to other Members of the Town Association and to the members of other communities developed by Firefly Communities, LLC provided:

(a) their covenants contain a definition for "Community-Wide Standard" very similar to the Community-Wide Standard definition herein, but only with regard to the "cultural attributes" therein; and,

(b) their covenants contain this same provision enabling effectively a reciprocal arrangement between communities.

In addition, notwithstanding the above provisions, the Town Council shall also be empowered to allow reasonable leasing of a Lot upon application in accordance with this Article to avoid undue hardship. Undue hardship shall be determined in the sole discretion of the Town Council and may include, but shall not be limited to, (i) where an Owner must relocate their residence outside of a specified area, and cannot, within one (1) year from the date that the Lot was placed on the market, sell the Lot for a price no greater than the current appraised market value, after having made reasonable efforts to do so; (ii) where the Owner dies and the Lot is being administered by Owner's estate; and (iii) where the Owner takes a leave of absence from their employment or temporarily relocates and intends to return to reside in the Lot, in which case the Owner must reapply every year for renewal of the hardship exception. Any Owner who believes they must lease their Lot to avoid undue hardship shall submit a written application to the Town Council setting forth the circumstances necessitating the leasing and such other information as the Town Council may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Town Council's written approval of the Owner's application. Those Owners who have complied with this Section have demonstrated that the inability to lease their Lots would result in undue hardship, and have obtained the requisite written approval of the Town Council, may lease their Lots for such duration as the Town Council reasonably determines is necessary to prevent undue hardship.

All permitted leases shall require, without limitation, that the lessee acknowledge receipt of a copy of the Governing Documents. The lease shall also obligate the lessee to comply with the foregoing.

The Owner shall provide the Town Council with the name and phone number of the lessee and the Owner's address other than at Cloudland Station and other such information as the Town Council may reasonably require within ten (10) days after a lease has been signed by both parties.

The Town Council shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with this Declaration and the By-Laws, in order to enforce the provisions of this Article. Any transaction which does not comply with this Article shall be voidable at the option of the Town Council.

10.5 Residential Use. Unless otherwise permitted by Declarant in a recorded instrument, Lots may be used only for residential purposes of a single family and for ancillary business or home office uses. A business or home office use shall be considered ancillary so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the activity conforms to all zoning requirements for the Properties; (c) the activity does not involve regular visitation of the Lot by clients, customers, employees, suppliers, or other invitees or door-to-door solicitation of residents of the Properties; (d) the activity does not increase traffic or include frequent deliveries within the Properties; and (e) the activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Town Council.

No other business, trade, or similar activity shall be conducted upon a Lot without the prior written consent of the Town Council. 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: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

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

the Declarant with respect to its development and sale of the Properties or its use of any Lots which it owns within the Properties, including the operation of a timeshare or similar program.

No garage sale, moving sale, rummage sale, auction or similar activity shall be conducted upon a Lot without the prior written consent of the Town Council and compliance with any rules adopted by the Town Council.

10.6 Occupancy of Unfinished Dwellings. No dwelling erected upon any Lot shall be occupied in any manner before commencement of construction or while in the course of construction, nor at any time prior to the dwelling being fully completed.

10.7 Vehicles.

(a) Motorcycles are prohibited from being operated in the Development at all times other than street legal motorcycles being used by Owners to access their Lots or to exit the Properties.

(b) Automobiles and non-commercial trucks and vans shall be parked only in driveways at the point farthest from the front Lot line unless otherwise approved by the ARB. The Declarant and/or the Town Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules; provided however, no overnight parking will be permitted on streets. No automobile or non-commercial truck or van may be left upon any portion of the Properties if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. Such vehicle shall be considered a nuisance and may be removed from the Properties. No motorized vehicles shall be permitted on pathways, sidewalks, or unpaved Common Area except for public safety vehicles authorized by the Town Council.

(c) No recreational vehicles shall be allowed on the Properties except for vehicles approved by the Declarant and/or the Town Association. The Declarant and/or the Town Association may adopt rules defining "recreational vehicle" and may designate certain parking areas within the Properties for recreational vehicles subject to reasonable rules and fees, if any.

(d) Service and delivery vehicles may be parked in the Properties during daylight hours for such periods of time as are reasonably necessary to provide service or to make a delivery within the Properties.

(e) All vehicles shall be subject to such reasonable rules and regulations as the Town Council may adopt. Any vehicle parked in violation of this Section or parking rules promulgated by the Town Council may be towed in accordance with the Governing Documents.

10.8 Private Streets. The Private Streets shall be subject to the provisions of this Declaration regarding use of Common Area. Additionally, Owners of Lots and other permitted users of the Private Streets pursuant to Section 2.2 shall be obligated to refrain from any actions which would deter from or interfere with the use and enjoyment of the Private Streets by other authorized users of the Private Streets. Prohibited activities shall include without limitation obstruction of any of the Private Streets.

10.9 Use of Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept, parked or stored on any part of the Common Area without the prior written consent of the Town Association. With the prior written approval of the Town Council, and subject to any restrictions imposed by the Town Council, an Owner or Owners may reserve portions of the Common Area for use for a period of time as set by the Town Council. Any such Owner or Owners who reserve a portion of the Common Area as provided herein 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 Area and all liability for any damage or injury to any person or thing as a result of such use. The Town 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 Town Association, its agents or employees.

#### 10.10 Animals and Pets.

(a) No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Town Council. No animals shall be kept, bred or maintained for commercial purposes without prior written Town Council approval.

(b) All permitted pets shall be reasonably controlled by the owner whenever outside a dwelling and shall be kept in such a manner as to not become a nuisance by barking, smell or other acts. The owners of the pet shall be responsible for all of the pet's actions and ensuring compliance with any and all rules adopted by the Town Council, including but not limited to any leashing requirements. Pets shall not be permitted in any lake, pond or other body of water, within any Private Facility except in compliance with conditions established by the owner of such Private Facility.

(c) If, in the sole opinion of the Town Council, any animal becomes dangerous or an annoyance or nuisance in the Properties or to nearby property or destructive of wildlife, such animal shall be removed from the Properties. In addition, all Owners acknowledge that the Town Council may adopt rules prohibiting certain breeds of dogs determined in the sole discretion of the Town Council to be dangerous. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3.

(d) This provision shall not be construed to interfere with any provision under the Americans with Disabilities Act or any similar applicable federal, state or local law, ordinance or regulation. Service animals in active use shall be permitted on the Properties. In addition, this provision shall not be construed to prohibit or limit the right of the Town Association or the Declarant to establish, permanently or temporarily, a petting zoo within the Properties.

10.11 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might, in the sole discretion of the Town Council, disturb the peace, quiet, safety, comfort, or serenity of the Occupants of surrounding property.

No noxious or offensive activity shall be conducted within the Properties, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes or as approved by the ARB, shall be located, installed or maintained upon the exterior of any Lot unless required by law. Any siren or device for security purposes shall contain a device or system which causes it to shut off automatically.

The reasonable and normal development, construction and sales activities conducted or permitted by the Declarant shall not be considered a nuisance or a disturbance of the quiet enjoyment of any Owner or Occupant.

10.12 Storage of Materials, Garbage, and Dumping. All garbage cans shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances in any pond, lake, drainage ditch or stream within the Properties or on any Common Area or Open Space, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff. Certain fertilizers may be prohibited by rules adopted in the sole discretion of the Town Council.

Each Owner shall maintain its Lot in a neat and orderly condition throughout initial construction of a residential dwelling and not allow trash or debris from its activities to be carried by the wind or otherwise scattered within the Properties. Storage of construction materials on the Lot shall be subject to such conditions, rules, and regulations as may be set forth in the Design Guidelines. Each Owner shall keep roadways, easements, swales, and other portions of the Properties clear of silt, construction materials and trash from its activities at all times. Trash and debris during initial construction of a residential dwelling shall be contained in standard size dumpsters or other appropriate receptacles and removed regularly from Lots and shall not be buried or covered on the Lot. Any Lot on which construction is in progress may be policed prior to each weekend, and during the weekend all materials shall be neatly stacked or placed and any trash or waste materials shall be removed. In addition, Owners shall remove trash and debris from the Lot upon reasonable notice by Declarant in preparation for special events.

10.13 Combustible Liquid. There shall be no storage of gasoline, kerosene, propane, heating or other fuels or any hazardous substances, except that a reasonable amount of fuel may be stored in containers appropriate for such purpose on each Lot for emergency purposes and operation of lawn mowers, grills, and similar tools or equipment and except as may be approved in writing by the ARB. The Town Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

10.14 Guns. The discharge of firearms on the Properties is prohibited. The term “firearms” includes without limitation “B-B” guns, pellet guns (including air guns), and firearms of all types. The Town Council may impose fines and exercise other enforcement remedies as set forth in this Declaration, but shall have no obligation to exercise self-help to prevent or stop any such discharge.

10.15 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed after a subdivision plat including such Lot has been approved and filed in the Public Records without the Declarant’s prior written consent during the Development Period, and the prior written consent of the ARB thereafter. In addition, no home shall be subdivided or partitioned to create housing for more than a single family. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots which it owns. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations, if any.

10.16 Sight Distance at Intersections. All property located at street intersections or driveways shall be landscaped, improved and maintained so as to permit safe sight across such areas. No fence, wall, hedge or shrub shall be placed or permitted to remain where it would cause a traffic or sight problem.

10.17 Drainage and Grading.

(a) Catch basins and drainage areas are for the purpose of natural flow of water only. No improvements, obstructions or debris shall be placed in these areas. No Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains.

(b) Each Owner shall be responsible for maintaining all drainage areas located on its Lot. Required maintenance shall include, but not be limited to, maintaining ground cover in drainage areas and removing any accumulated debris from catch basins and drainage areas.

(c) Each Owner shall be responsible for controlling the natural and man-made water flow from its Lot including eliminating basins, artificial and natural, that foster a habitat for mosquitoes. No Owner shall be entitled to overburden the drainage areas or drainage system within any portion of the Properties or any Private Facilities with excessive water flow from its Lot. Owners shall be responsible for all remedial acts necessary to cure any unreasonable drainage flows from Lots. Neither the Town Association nor the Declarant bears any responsibility for remedial actions to any Lot.

(d) Use of any areas designated as “drainage easement areas” on any recorded subdivision plat of the Properties, shall be subject to strict prohibitions against encroachment of structures into, over or across the drainage easement areas, and the right of the Declarant to enter upon and maintain the drainage easement areas. Such maintenance activities may include disturbance of landscaping pursuant to the terms contained in any declaration of easements, notwithstanding approval of the landscaping as set forth in Article 9.

(e) No Person shall alter the grading of any Lot without prior approval pursuant to Article 9 of this Declaration. The Declarant hereby reserves for itself and the Town Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. 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.

(f) All Persons shall comply with any and all applicable erosion control ordinances and regulations in construction of improvements on any Lot and in conducting any activity within non-disturbance buffer zones.

(g) All Persons shall comply with any and all applicable state or county ground disturbance laws, including, but not limited to Chapter 9 of Title 25 of the Official Code of Georgia Annotated specifically O.C.G.A. §25-9-6 also referred to as the Call-Before-You-Dig law.

10.18 Irrigation. Owners shall not install irrigation systems which draw upon ground or surface waters nor from any lakes, ponds, or other body of water within the Properties. However, the Declarant and the Town Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility.

10.19 Streams. No streams which run across any Lot may be dammed, or the water therefrom impounded, diverted, or used for any purpose without the prior written consent of the Town Council, except that the Declarant shall have such rights as provided in Article 11.

10.20 Lakes, Ponds and Other Water Bodies. Lakes, ponds and other water bodies shall be used only in accordance with the rules and regulations adopted by the Town Council. Fishing and certain non-gasoline powered water vehicles shall be permitted within the lakes, subject to the rules and

regulations adopted by the Town Council and proper licensing permits as may be required by any governmental entity. Swimming or other active uses of the lakes shall be strictly governed by the rules and regulations adopted by the Town Council and may be prohibited altogether in the discretion of the Declarant and the Town Association. No Person may use any lake, pond and other water body in any fashion for irrigation of a Lot. Notwithstanding the foregoing, the Town Association shall have the right to use the equipment it deems necessary at the times and places it deems necessary to comply with its maintenance responsibilities. The Town Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the lake. Except as designated by the Declarant, no trails or pathways shall be established along the perimeter of any lake or pond. With the exception of any community dock constructed on behalf of the Town Association, no docks, piers, or gazebos shall be constructed, attached or floated upon or adjacent to any lake.

10.21 Wetlands. All areas designated on a recorded plat as “wetlands” shall be generally left in a natural state, and any proposed alteration of the wetlands must be in accordance with any restrictions or covenants recorded against such property and be approved by all appropriate regulatory bodies. Prior to any alteration of a Lot, the Owner shall determine if any portion thereof meets the requirements for designation as a regulatory wetland. Notwithstanding anything contained in this Section, the Declarant, the Town Association, and the successors, assigns, affiliates and designees of each may conduct such activities as have been or may be permitted by the U.S. Army Corps of Engineers or any successor thereof responsible for the regulation of wetlands.

10.22 Conservation Area. Any portions of the Properties subject to a conservation easement and conveyed to or controlled by a Conservation Trust shall be known as “conservation areas” and shall be subject to restrictions imposed by the instruments creating such conservation easement. Any proposed alteration of a conservation area, including the removal of fallen limbs, dead trees or other natural debris, shall require the written consent of the owner or holder of the affected conservation easement, the written consent of the ARB, and during the Development Period, the written consent of the Declarant.

10.23 Registered Sex Offenders. No Person required to register as a sex offender in the State of Georgia pursuant to O.C.G.A. §42-1-12, *et seq.* may purchase or own any Lot or other property within Cloudland Station. No Owner may permit any Person required to register as a sex offender in Georgia to occupy or visit such Owner’s Lot or other property within Cloudland Station.

Should the Declarant or the Town Association determine that any Owner of a Lot within Cloudland Station was a sex offender required to register pursuant to O.C.G.A. §42-1-12, *et seq.* at the time of the purchase of the Lot, then in addition to other remedies set forth in the Governing Documents, Declarant, during the Development Period, or the Town Association thereafter, shall have the right, but not the obligation, to repurchase the Lot from the Owner at the original purchase price paid by such Owner. In addition, if any Owner is convicted of an offense requiring registration as a sex offender pursuant to O.C.G.A. §42-1-12, *et seq.* subsequent to the purchase of a Lot or other property within Cloudland Station or if any Owner permits any Person required to register as a sex offender in Georgia to occupy or visit any Lot or other property within Cloudland Station, then in addition to other remedies set forth in the Governing Documents, the Town Association shall have the right, but not the obligation, to purchase the Lot from the Owner at its sole discretion. In the latter event, if the Town Association exercises its purchase right, the purchase price to be paid to Owner shall be the then current fair market value as determined by the mutual agreement of the Town Association and the Owner. In the event that the Town Association and the Owner are unable to mutually agree on the purchase price of the Lot, then the purchase price of the Lot shall be determined by an M.A.I. appraiser mutually approved by the Town Association and the Owner. If the Town Association and the Owner cannot agree upon the selection of an M.A.I. appraiser within thirty (30) days after the Town Association’s notice to the Owner that the Town Association will purchase the Lot (the “Purchase Notice”), then the Town Association and the

Owner shall each appoint within forty (40) days after the issuance of the Purchase Notice one M.A.I. appraiser who, in turn, will select a third M.A.I. appraiser. The purchase price of the Lot shall be determined by deriving the average of the two (2) closest appraisals. The appraisal cost shall be split equally by and between the Town Association and the Owner. The determination of an individual appraiser or the panel of appraisers, whichever the case may be, shall be final and conclusive.

Each Owner agrees, and the deed of conveyance to Owner shall provide, that if this Section is violated, then within twelve (12) months after the receipt of notice of such violation by the Declarant or the Town Association, as applicable (the “purchasing party”), the purchasing party shall have the right, without the obligation, to require the conveyance of the Lot to the purchasing party or any third party designated by the purchasing party by delivering written notice of its intent to exercise its purchase right under this Section (the “purchase right”).

The closing on the exercise of the purchase right shall take place within one hundred twenty (120) days of the date upon which the purchasing party delivers notice of its intent to exercise of its purchase right (the exact date, time, and location of closing of the purchase to be selected by the purchasing party). Conveyance of the Lot to the purchasing party shall be by limited warranty deed (subject to the same exceptions to title set forth in the deed of conveyance to Owner and subject to standard and customary easements that do not hinder the use or development and/or construction of improvements upon the Lot or any portion thereof). On or before closing, the Owner of the Lot shall be required to pay any and all outstanding assessments or other charges due and owing under the Declaration and shall cure or cause to be cured all title defects or title exceptions not existing at the time Owner acquired the Lot. If the title proposed to be conveyed to the purchasing party is subject to any defect not permitted in this Section, the purchasing party, in addition to all other rights and remedies which it may have at law or in equity, may remove such defect and deduct all costs and expenses incurred by the purchasing party (including, but not limited to, attorneys’ fees) from the amount of the purchase price otherwise payable. Upon conveyance, the purchasing party shall pay to the Owner of the Lot the applicable purchase price in funds immediately available in the Walker County, Georgia area. Ad valorem taxes and assessments shall be prorated as of 12:01 a.m. on the date of such conveyance.

The failure of the Town Association or the Declarant to exercise any of the purchase rights under this Section against any Owner shall not constitute a waiver of such right against the Owner or any other party with respect to future violations.

The deed of conveyance of a Lot to Owner shall provide that the purchase right is subordinate to any recorded mortgage made in good faith for value securing a bona fide construction loan or Mortgage on the Lot.

Neither Declarant nor the Town Association is under any duty to investigate or determine whether any Owner, potential Owner or any Occupant of any Lot or other property within Cloudland Station is required to register as a sex offender. In addition, this provision shall not be construed to constitute a representation, assurance or guarantee by Declarant or the Town Association that no sex offender shall be on the Properties at any time, and no Owner or Occupant shall be entitled to rely on this provision as such representation, assurance or guarantee at any time.

## **ARTICLE 11: EASEMENTS**

Declarant reserves, creates, establishes, promulgates, and declares the non-exclusive, perpetual easements set forth herein for the enjoyment of the Declarant, the Town Association, the Members, the Owners, and their successors-in-title.



11.1 Easements of Encroachment. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between adjacent Lots, between each Lot and any adjacent Common Area, between Common Area and any adjacent Private Facility, and between each Lot and any adjacent Private Facility due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.2 Easements for Utilities, Etc.

(a) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements, for itself during the Development Period, for the Town Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties (but not through a structure, existing or proposed) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable, digital or similar television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; lakes, ponds, wetlands, irrigation, and drainage systems; street lights and signage; and all utilities, including, but not limited to, water, septic, sewer, telephone, gas, and electricity systems, lines and meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Properties, as necessary, to exercise the easements described above.

Declarant may assign to the local water supplier, sewer service provider, electric company, telephone company, natural gas supplier, internet service provider, cable television/satellite service provider or any utility sub-metering company, the easements set forth herein across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) Declarant reserves, creates, establishes, promulgates and declares for itself during the Development Period and its designees non-exclusive, perpetual, reciprocal, appurtenant easements, and the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibits "A" or "B."

(c) Any damage to a Lot resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. Nothing contained herein shall obligate the Declarant, the Town Association or the Town Council to pursue legal recourse against any Person damaging a Lot or any portion thereof as a result of the exercise of this easement. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot, and except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or Occupant.

(d) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.3 Easement for Slope Control, Drainage and Waterway Maintenance. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements, for itself, the owner of any Private Facility and the Town Association, and their respective representatives, successors and assigns, contractors and agents, over, across, under, through and upon each Lot for the purposes of:

(a) controlling soil erosion, including grading and planting with vegetation any areas of any Lot which are or may be subject to soil erosion;

(b) drainage of natural or man-made water flow and water areas from any portion of the Properties or any Private Facility;

(c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Lot or Common Area; and

(d) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Properties or any Private Facility.

Use of any areas designated as “drainage easement areas” on any recorded subdivision plat of the Properties, shall be subject to strict prohibitions against encroachment of structures into, over or across the drainage easement areas, and the right of the Declarant to enter upon and maintain the drainage easement areas. Such maintenance activities may include disturbance of landscaping pursuant to the terms contained in any declaration of easements, notwithstanding approval of the landscaping as set forth in Article 9.

11.4 Easements to Serve Additional Property. The Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for itself and its duly authorized successors and assigns, including without limitation, the owners of Private Facilities, successors-in-title, agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Additional Property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads, for the posting of signs, and for connecting and installing utilities serving the Additional Property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of the Additional Property.

11.5 Easement for Entry. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for the Town Association to enter upon any Lot for emergency, security, and safety reasons. Such right may be exercised by any member of the Town Council, the Town Association’s officers, committee members, agents, employees and managers of the Town Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to the Owner. This easement includes the right to enter any Lot to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Town Council, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities. Entry under this Section shall not constitute a trespass.

11.6 Easements for Maintenance and Enforcement.

(a) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant rights and easements for the Town Association to enter all portions of the Properties, including each Lot but excluding the interior of any residential dwelling, to (i) perform its maintenance responsibilities under Section 5.1, and (ii) make inspections to ensure compliance with the Governing Documents. Except in emergencies, entry onto a Lot shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Town Association at its expense.

The Town Association may also enter a Lot, excluding the interior of any residential dwelling, to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys fees, may be assessed against the violator as a Specific Assessment.

(b) Entry under this Section shall not constitute a trespass, and prior notice to the Owner shall not be required except as provided in Section 5.2.

11.7 Easement for Hiking and Pedestrian Trail Access. Declarant hereby reserves, creates, establishes, promulgates and declares perpetual, non-exclusive easements for itself, its successors, assigns and designees, the Town Association and the Owners, over and across any areas designated as "hiking trails," "walking trails" or "paths" on any recorded subdivision plat of the Properties regardless of whether such trails or paths are located on Lots or Common Area. Use of such hiking trails, walking trails or paths shall be governed by reasonable rules and regulations promulgated by the Town Association and those rights set forth in Section 2.1.

11.8 Easements for Lake and Pond Maintenance and Flood Water. Declarant reserves, creates, establishes, promulgates and declares for itself and its successors, assigns, and designees and the Town Association the nonexclusive, perpetual, appurtenant right and easement, but not the obligation, to enter upon the lakes, ponds, streams, and wetlands located within the Area of Common Responsibility to (a) install, keep, maintain, and replace pumps and irrigation systems in order to provide water for the irrigation of any of the Area of Common Responsibility or any Private Facility; (b) draw water from such sources for purposes or irrigation; (c) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (d) remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration. The Declarant, the Town Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of any lake, pond, stream, or wetland to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves, creates, establishes, promulgates and declares for itself and its successors, assigns and designees, and the Town Association the non-exclusive, perpetual, appurtenant right and easement of access and encroachment over the Common Area and Lots (but not the dwellings thereon) adjacent to or within twenty (20) feet of lake beds, ponds, streams and wetlands in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the lakes, ponds, streams, and wetlands within the Area of Common Responsibility; (c) maintain and landscape the slopes and banks pertaining to such lakes, ponds, streams, and wetlands; (d) disturb existing landscaping; and (e) pile dirt and plant materials upon such areas. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. All affected areas shall be restored to a neat and attractive condition to the extent practical, as soon as reasonably possible after completion of any construction or maintenance activities authorized in this Declaration. Nothing herein

shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural disasters.

Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (a) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (b) to define the limits of any such easements.

11.9 Lateral Support. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements over every portion of the Common Area, every Lot, and any improvement which contributes to the lateral support of another portion of the Common Area, of another Lot, or of a Private Facility for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

11.10 Easements for Private Facilities. Declarant reserves, creates, establishes, promulgates and declares for the owners of any Private Facility the following non-exclusive, perpetual, reciprocal, appurtenant easements which shall benefit the Private Facility:

(a) The owner of any Private Facility within or adjacent to any portion of the Properties, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Area reasonably necessary to the operation, maintenance, repair and replacement of its Private Facility.

(b) There is hereby established for the benefit of the owner of any of the Private Facilities and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all roadways located within the Properties reasonably necessary to travel between the entrance to the Properties and the Private Facilities and over those portions of the Properties (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Private Facilities. Without limiting the generality of the foregoing, members of the Private Facilities and guests and invitees of the Private Facilities shall have the right to park their vehicles on the roadways located within the Properties at reasonable times before, during, and after special events, tournaments and other similar functions held by or at the Private Facilities to the extent that the Private Facilities have insufficient parking to accommodate such vehicles. The Private Facilities, their guests, invitees, employees, agents, contractors and designees shall have the right to be admitted through any gate, after receipt of clearance from the Private Facility, without the payment of a fee or charge for ingress or egress, provided that the number of such persons permitted entrance to the Properties at any one time may be limited or otherwise restricted to the reasonable number of parking spaces available at the Private Facility in order to avoid congestion and the unauthorized parking of vehicles.

(c) Any portion of the Properties immediately adjacent to the Private Facilities are hereby burdened with a non-exclusive easement in favor of the adjacent Private Facilities for overspray of water from the irrigation system serving the Private Facilities. Under no circumstances shall the Town Association or the owner(s) of the Private Facilities be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(d) The Declarant hereby reserves for itself, its successors and assigns, and may assign to the owner(s) of the Private Facilities, an easement and all rights to draw water from the lakes and ponds within or adjacent to the Properties for purposes of irrigation of the Private Facilities and for access to and the right to enter upon the lakes and ponds within or adjacent to the Properties, if any, for installation and maintenance of any irrigation systems.

(e) Notwithstanding anything contained herein to the contrary, the easements described hereinabove may not be amended or extinguished without the written consent of the owner(s) of the Private Facilities.

11.11 Easement for Special Events. Declarant reserves, creates, establishes, promulgates and declares for itself, its successors, assigns and designees a perpetual, non-exclusive appurtenant easement over the Common Area for the purpose of conducting or allowing its designees to conduct educational, cultural, entertainment, promotional or sporting events, and other activities of general community interest at such locations and times as Declarant, in its sole discretion, deems appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Lot, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the Occupants of its Lot to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

11.12 Rights to Stormwater Runoff, Effluent and Water Reclamation. Declarant hereby reserves for itself and its designees, including but not limited to the owner of any Private Facility, all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Properties, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such right shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff and effluent.

11.13 Easement for Greenbelt Maintenance.

(a) Declarant reserves for itself and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon greenbelts, buffer zones and nondisturbance areas located within the Area of Common Responsibility to remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration. The Declarant's rights and easements provided in this Section shall be automatically transferred to the Town Association at the expiration of the Development Period or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. The Declarant, the Town Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of greenbelt, buffer zone or nondisturbance area to the extent reasonably necessary to exercise their rights under this Section.

(b) Encroachment of structures into, over, or across greenbelts, buffer zones and nondisturbance areas shown on any recorded subdivision plat of the Properties is strictly prohibited. Landscaping in these areas is subject to removal in the reasonable discretion of Declarant in the ordinary course of maintenance of these areas. Any landscaping permitted shall be installed in conformance with Article 9 herein. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements.

(c) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.14 Easement for Lake Access. Declarant hereby grants to the Owners a perpetual, non-exclusive easement over and across areas of the Common Area adjacent to any lake designated by recorded subdivision plat for the purpose of ingress and egress to the lake. Such easement is limited solely to access at the locations designated and constructed by Declarant and/or the Town Association and

shall not include the right for any individual Owner to construct any structure, walkway or path within the Common Area to facilitate lake access.

11.15 Liability for Use of Easements. No Owner shall have a claim or cause of action against the Declarant, the Town Association, their successors or assigns, including without limitation the owner(s) of any Private Facilities, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Properties, except in cases of willful or wanton misconduct.

## **ARTICLE 12: MORTGAGEE PROVISIONS.**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Town Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) Days, or any other violation of the Declaration or By-Laws relating to such Lot or the Owner or Occupant which is not cured within sixty (60) Days;

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

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

12.2 No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

12.3 Notice to Town Association. Upon request, each Owner shall be obligated to furnish to the Town Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

12.4 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Town Council to respond to or consent to any action shall be deemed to have approved such action if the Town Association does not receive a written response from the Mortgagee within thirty (30) Days of the date of the Town Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

12.5 Construction of Article 12. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Georgia law for any of the acts set out in this Article.

### **ARTICLE 13: DECLARANT'S RIGHTS**

13.1 Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part to the Town Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

13.2 Development and Sales. The Declarant and Builders authorized by Declarant may maintain and carry on the Properties such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Lots, such as sales activities, tournaments, charitable events, and promotional events, and restrict Members from using the Common Area during such activities. Such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Members' use and enjoyment of the Common Area. In the event that any such activity necessitates exclusion of Owners from Common Areas, such activities shall not exceed seven (7) consecutive Days. The Declarant and authorized Builders shall have easements over the Properties for access, ingress and conducting such activities.

In addition, the Declarant and Builders authorized by Declarant may establish within the Properties, including within any common building, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Lots, including, but not limited to, business offices, signs, model units, tents, sales offices, sales centers and related parking facilities. During the Development Period, Owners may be excluded from use of all or a portion of such facilities in the Declarant's sole discretion. The Declarant and authorized Builders shall have easements over the Properties for access, ingress, and egress and use of such facilities.

Declarant may permit the use of any facilities situated on the Common Area by Persons other than Owners without the payment of any use fees. Declarant reserves the right to create and operate an exclusive reservation system and service and an exclusive real estate sales and leasing listing agency for the Lots within Cloudland Station; provided, however, that the Declarant agrees and represents that the terms, conditions, and fees for such services shall not exceed the then current market rate for comparable services provided by third parties.

13.3 Improvements to Common Areas. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

13.4 Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easements, or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records. No such

instrument recorded by any Person, other than the Declarant pursuant to Section 7.4, may conflict with the Declaration, By-Laws or Articles.

13.5 Right of the Declarant to Disapprove Actions. Until two (2) years following the termination of the Class "B" membership, and for so long as Declarant owns or operates any Private Facility, the Declarant shall have the right to disapprove any action, policy or program of the Town Association, the Town Council and any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant or Builders under the Governing Documents, or interfere with development of, construction on, marketing or operation of any portion of the Properties or any Private Facility, or diminish the level of services being provided by the Town Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Town Association, the Town Council or any committee as may be granted to the Declarant in the Governing Documents:

(a) The Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Town Association, the Town Council or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Declarant has registered with the secretary of the Town Association, which notice complies with the By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Declarant may waive its right to receive notice in the same manner as provided in the By-Laws.

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Town Council and/or the members of the subject committee.

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired.

(d) The Declarant, acting through any authorized representative, may exercise its right to disapprove at any time within ten (10) Days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) Days following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Declarant exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Town Council or the Town Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Town Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

13.6 Amendments. Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any use restrictions and rules or Design Guidelines shall be effective without prior notice to and the written consent of the Declarant, during the Development Period. This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) thirty (30) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.



## **ARTICLE 14: PRIVATE FACILITIES**

14.1 General. Private Facilities shall not be a portion of the Common Area, and neither membership in the Town Association nor ownership or occupancy of a Lot shall confer any ownership interest in or right to use any Private Facility. Rights to use the Private Facilities will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Private Facilities. The owners of the Private Facilities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Facilities, including, without limitation, eligibility for and duration of use rights, categories of use, extent of use privileges, and number of users; and to require the payment of a purchase price, membership contribution, initiation fee, membership deposit, dues, use charges and other charges for use privileges; and to change, eliminate or cease operation of any or all of the facilities; and to reserve use rights; and to terminate use rights altogether, subject to the terms of any written agreements.

14.2 Conveyance of Private Facilities. All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Declarant, the Town Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Facility, and no purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Facility. Further, the ownership or operation of the Private Facilities may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations of any Private Facility by a Person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to, an “equity” club or similar arrangement whereby the members of the Private Facility or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Facility; or (c) the conveyance of any Private Facility to one (1) or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Town Association or any Owner shall be required to effectuate any change in ownership or operation of any Private Facility, for or without consideration and subject to or free of any mortgage, covenant, lien or other encumbrance.

14.3 View Impairment. Neither the Declarant, the Town Association, nor the owner of any Private Facility, guarantees or represents that any view over and across any Private Facility from Lots will be preserved without impairment. The owners of such property shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping or to install improvements or barriers (both natural and artificial) to the Private Facilities from time to time. Any such additions or changes may diminish or obstruct any view from the Lots and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Each Owner, by acceptance of a deed, acknowledges that any view of a Private Facility which the Lot may enjoy as of the date of the purchase of the Lot may be impaired or obstructed by the natural growth of existing landscaping, the installation of additional trees, other landscaping or other types of improvements or barriers (both natural and artificial) on the Private Facility.

14.4 Cost Sharing Agreements. The Town Association may enter into a contractual arrangement or Cost Sharing Agreement with the owner of any Private Facility obligating the Private Facility or the Town Association to contribute funds for, among other things, shared property or services and/or a higher level of Common Area maintenance in accordance with Section 5.5.

14.5 Use Restrictions. Upon request of the owner of any Private Facility, the Town Association shall enforce its use restrictions and rules against any Owner or Occupant violating such regulations within such Private Facility, including but not limited to the exercise of the Town Association’s self-help rights for violation of sign and pet restrictions.

14.6 Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Private Facilities, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefiting any Private Facility, may be made without the written approval of the owner(s) of the affected Private Facility. The foregoing shall not apply, however, to amendments made by the Declarant.

14.7 Jurisdiction and Cooperation. It is Declarant's intention that the Town Association and the Private Facilities shall cooperate to the maximum extent possible in the operation of the Properties and the Private Facilities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Design Guidelines. The Town Association shall have no power to promulgate use restrictions or rules affecting activities on or use of the Private Facilities without the prior written consent of the owners of the Private Facilities affected thereby.

## **ARTICLE 15: GENERAL PROVISIONS**

### 15.1 Duration.

(a) Unless terminated as provided in Section 15.1(b), the provisions of this Declaration shall run with, bind the Properties and remain in effect perpetually to the extent permitted by law; provided, however, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land for so long as permitted by Georgia law. To the extent that Georgia law limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of twenty (20) years each. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

(b) Unless otherwise provided by Georgia law, this Declaration may be terminated within the first twenty (20) years after the date of recording by an instrument signed by Owners of at least ninety percent (90%) of the total Lots within the Properties, which instrument is recorded in the Public Records; provided however, regardless of the provisions of Georgia law, this Declaration may not be terminated during the Development Period without the prior written consent of the Declarant. After twenty (20) years from the date of recording, this Declaration may be terminated only by an instrument signed by Owners owning at least fifty-one percent (51%) of the Lots and constituting at least fifty-one percent (51%) of the total number of Owners, and by the Declarant, if the Declarant owns any portion of the Properties, which instrument complies with the requirements of O.C.G.A. § 44-5-60(d) and is recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

### 15.2 Amendment.

(a) By Declarant. Except as otherwise provided in Section 7.5, until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the U.S. Department of Veterans Affairs, the U.S. Department of Housing and Urban Development, the Federal National

Mortgage Town Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent in writing. In addition, during the Development Period, Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner. The failure of an amendment to apply uniformly to all Lots shall not constitute a material adverse effect upon the rights of any Owner.

(b) By the Town Council. The Town Council shall be authorized to amend this Declaration without the consent of the Members (i) for the purpose of submitting the Properties to the Georgia Property Owners' Town Association Act, O.C.G.A. §44-3-220, et seq. (1994) and conforming this Declaration to any mandatory provisions thereof; (ii) to correct scrivener's errors and other mistakes of fact; and (iii) for the purposes of bringing any provision contained herein into compliance with the Fair Housing Amendments Act of 1988, as more fully set forth in Section 15.4; provided that amendments under this provision have no material adverse effect on the rights of the Owners. During the Development Period, any such amendments shall require the written consent of the Declarant.

(c) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the total Class "A" votes in the Town Association, and, during the Development Period, the written consent of the Declarant.

Notwithstanding the above, the percentage of votes necessary and procedures to amend a specific clause shall not be less than the prescribed percentage of affirmative votes and procedures required for action to be taken under that clause.

(d) Validity and Effective Date. Any amendment to the Declaration shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

15.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

15.4 Fair Housing Amendments Act. The provisions of the Governing Documents shall be subordinate to the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, et seq., (hereinafter referred to as "FHAA"), and shall be applied so as to comply with the FHAA. In the event that there is a conflict between or among the Governing Documents and the FHAA, the FHAA shall prevail. Notwithstanding anything to the contrary contained herein, in the event that any provision of this Declaration conflicts with the FHAA, the Town Council, without the consent of the Members or of the Declarant, shall have the unilateral right to amend this Declaration for the purpose of bringing this Declaration into compliance with the FHAA. Furthermore, notwithstanding Section 2.3 hereof, the Town Council shall have the

unilateral right to assign portions of the Common Area as Exclusive Common Area or to reassign Common Area previously assigned as Exclusive Common Area to one (1) or more Lots to one (1) or more Owner(s) or Occupant(s) should such action be required in order to make a reasonable accommodation under the FHAA.

15.5 Dispute Resolution. It is the intent of the Town Association and the Declarant to encourage the amicable resolution of disputes involving the Properties and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Town Association, the Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Properties, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents through alternative dispute resolution methods, first through mediation then through arbitration. To foster the amicable resolution of disputes, the Town Council may adopt alternative dispute resolution procedures.

Participation in alternative dispute resolution procedures shall be voluntary and confidential. Should either party conclude that such discussions have become unproductive or unwarranted, then the parties may proceed with litigation.

15.6 Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Town Association unless approved by Members holding eighty percent (80%) of the total Class "A" votes in the Town Association. This Section shall not apply, however, to (a) actions brought by the Town Association to enforce the provisions of the Governing Documents (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article 8; (c) proceedings involving challenges to ad valorem taxation; (d) counter-claims brought by the Town Association in proceedings instituted against it or (e) actions brought by the Town Association against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

15.7 Non-Merger. Notwithstanding the fact that Declarant is the current owner of the Properties, it is the express intention of Declarant that the easements established in the Declaration for the benefit of the Properties and Owners shall not merge into the fee simple estate of individual lots conveyed by Declarant or its successor, but that the estates of the Declarant and individual lot owners shall remain as separate and distinct estates. Any conveyance of all or a portion of the Properties shall be subject to the terms and provisions of this Declaration, regardless of whether the instrument of conveyance refers to this Declaration.

15.8 Grants. The parties hereby declare that this Declaration, and the easements created herein shall be and constitute covenants running with the fee simple estate of the Properties. The grants and reservations of easements in this Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted or reserved in this Declaration.

15.9 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional recorded covenants, restrictions, and declarations, and the Town Association may, but shall not be required to, enforce the covenants, restrictions and declarations; provided however, in the event of a conflict between or among this Declaration and such covenants, restrictions or declarations, and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration, the By-Laws, Articles, and use restrictions and rules of the

Town Association shall prevail. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Town Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants, restrictions and declarations applicable to any portion of the Properties from containing additional covenants, restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Town Association shall have the standing and authority to enforce the same.

15.10 Use of the “Cloudland Station” or “Firefly Communities” Names and Logos. No Person shall use the words “Cloudland Station” or the logo for “Cloudland Station” or the words “Firefly Communities” or the logo for “Firefly Communities” or any derivative in any printed or promotional material without the Declarant’s prior written consent. However, Owners may use the words “Cloudland Station” or “Firefly Communities” in printed or promotional matter where such terms are used solely to specify that particular property is located within Cloudland Station, a Firefly Community, and the Town Association and any other community association located in Cloudland Station, the Declarant, and the owner of any Private Facility shall each be entitled to use the words “Cloudland Station” in their names.

15.11 Compliance. Every Owner and Occupant of any Lot shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Town Association, the Declarant, or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Town Association in Section 4.3.

15.12 Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to a Lot shall give the Town Council at least seven (7) Days’ prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Town Council may reasonably require. After the transfer of title, the transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Town Council, notwithstanding the transfer of title.

15.13 Exhibits. Exhibits “A” and “B” attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 15.2.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this \_\_\_\_ day of \_\_\_\_\_, 2006.

FIREFLY COMMUNITIES, LLC,  
a Georgia limited liability company

By: \_\_\_\_\_ [SEAL]  
John M. Tatum, Chief Executive Officer

Signed, sealed, and delivered  
this \_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_, in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public

My Commission Expires:

(Notary Seal)

**LENDER CONSENT**

\_\_\_\_\_ (“Lender”), beneficiary under that certain \_\_\_\_\_ Agreement dated \_\_\_\_\_, 20\_\_ and recorded on \_\_\_\_\_, \_\_\_\_\_, in the Public Records at Deed Book \_\_\_\_\_, Page \_\_\_\_\_ (as amended, the “Security Deed”), for itself and its successors and assigns, approves the foregoing Declaration of Covenants, Conditions and Restrictions for Cloudland Station (the “Declaration”) and Lender agrees and acknowledges that, upon recordation of the Declaration, the restrictive covenants contained in the Declaration will run with the land which serves as security for the debt evidenced by the Security Deed and further agrees that any foreclosure or enforcement of any other remedy available to Lender under the Security Deed will not render void or otherwise impair the validity of the Declaration.

Dated: \_\_\_\_\_, 20\_\_.

LENDER:

\_\_\_\_\_

Signed, sealed and delivered  
in the presence of:

By: \_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Witness

[CORPORATE SEAL]

\_\_\_\_\_  
Notary Public

My Commission Expires:  
[NOTARY SEAL]

**LENDER CONSENT**

\_\_\_\_\_ (“Lender”), beneficiary under that certain \_\_\_\_\_ Agreement dated \_\_\_\_\_, 20\_\_ and recorded on \_\_\_\_\_, \_\_\_\_\_, in the Public Records at Deed Book \_\_\_\_\_, Page \_\_\_\_\_ (as amended, the “Security Deed”), for itself and its successors and assigns, approves the foregoing Declaration of Covenants, Conditions and Restrictions for Cloudland Station (the “Declaration”) and Lender agrees and acknowledges that, upon recordation of the Declaration, the restrictive covenants contained in the Declaration will run with the land which serves as security for the debt evidenced by the Security Deed and further agrees that any foreclosure or enforcement of any other remedy available to Lender under the Security Deed will not render void or otherwise impair the validity of the Declaration.

Dated: \_\_\_\_\_, 20\_\_.

LENDER:

\_\_\_\_\_

Signed, sealed and delivered  
in the presence of:

By: \_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Witness

[CORPORATE SEAL]

\_\_\_\_\_  
Notary Public

My Commission Expires:  
[NOTARY SEAL]



**EXHIBIT "A"**

**Land Initially Submitted**

All that tract or parcel of land lying and being in Land Lot(s) \_\_\_\_\_ of the \_\_\_\_\_ District, \_\_\_\_\_ Section, Walker County, Georgia, being Lots \_\_\_\_\_ through and including \_\_\_\_\_ of Cloudland Station as per plat recorded at Plat Book \_\_\_\_\_, Pages \_\_\_\_\_, Walker County, Georgia, records, which plat by reference thereto is incorporated herein and made a part hereof.

This Exhibit "A" may unilaterally be amended by the Declarant at any time for the purpose of deleting and removing any property designated as a Private Facility by filing an amendment to this Declaration in the Public Records striking this Exhibit "A" and substituting a new Exhibit "A" which incorporates a revised description of the Land Initially Submitted.

**EXHIBIT "B"**

**Additional Property**

**[ATTACH LEGAL DESCRIPTION OF 420 ACRES]**

TOGETHER WITH:

All those tracts or parcels of land lying and being within two (2) miles of the perimeter boundary of the land described in Exhibit "A" and located in Walker County, Georgia.

LESS AND EXCEPT all that property described in Exhibit "A".