

STATE OF ALABAMA)
COUNTY OF SHELBY)

**DECLARATION OF EASEMENTS AND MASTER PROTECTIVE COVENANTS
FOR
HIGHLAND LAKES, A RESIDENTIAL SUBDIVISION**

THIS DECLARATION OF EASEMENTS AND PROTECTIVE COVENANTS (the "Declaration") is made as of this 3rd day of MARCH, 1994, by Highland Lakes Development, Ltd., an Alabama limited partnership, (the "Developer"), which declares that the real property hereinafter described is and shall be subdivided, developed, held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth (the "Declaration").

WHEREAS, Developer has developed certain real property located in Shelby County, Alabama, into a residential subdivision with single family lots, fishing lakes ("Lakes"), and common areas principally consisting of private roads, landscaped areas, and parks ("Common Areas") as part of a planned community to be known as Highland Lakes (the "Development"), as reflected on the Plat of Highland Lakes, First Sector, recorded in Map Book 18, page 37 A-G inclusive, in the Probate Office of Shelby County, Alabama;

WHEREAS, Developer has acquired for the benefit of the owners of lots within Highland Lakes certain leasehold, easement and contractual rights to use certain property adjacent to the Property for access to and from U.S. Highway 280 and to use certain lakes and related facilities for recreational purposes pursuant to the instruments described on Exhibit A hereto;

WHEREAS, Developer desires to establish certain protective and restrictive covenants providing for the maintenance and repair of the Common Areas and for the regulation of the use of such Common Areas, and to this end, desires to subject the property herein described, together with such additions thereto as may hereafter be made, to the easements, restrictions and covenants of this Declaration, all of which are for the benefit of said property and each owner thereof;

WHEREAS, the Developer has created a nonprofit corporation (the "Association") to which it has delegated the responsibility for the management and regulation of the Common Areas and the Lakes and assigned the powers of enforcing the provisions of this Declaration and any additional covenants and restrictions that are placed against property that is now or may hereafter be included in the Development and of levying assessments against the owners of lots within the Development to enable the Association to perform such obligations;

NOW, THEREFORE, Developer does hereby declare that all of that certain real property situated in Shelby County, Alabama which is more particularly described in the plat of Highland Lakes, a Residential Subdivision, First Sector, recorded in Map Book 18, page 37 A-G inclusive, in the Probate Office of Shelby County, Alabama, and the rights acquired by the Developer for the benefit of the owners of such property under the instruments listed on Exhibit A attached hereto and incorporated herein by this reference, shall be held, developed, improved, transferred, sold, conveyed, leased, occupied and used subject to the following easements, covenants, conditions, restrictions, charges, liens and regulations, which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title or interest in any portion of the above described real property, and any of the Additional Property, as described in Section 1.1 below (but only to the extent Developer submits any portion of the Additional Property to the terms and provisions of this Declaration), and their respective heirs, executors, administrators, personal representatives, successors and assigns.

**ARTICLE I
DEFINITIONS**

As used throughout this Declaration, the following terms shall have the meanings set forth below, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

133702.4

EDDLEMAN PROPERTIES, INC.
2700 HIGHWAY 280 SUITE 325
BIRMINGHAM, AL 35223

03/04/1994-07111
09:37 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
035 MEL 93.50

Inst # 1994-07111

1.1 Additional Property. The term "Additional Property" shall mean and refer to any real property and any Improvements situated thereon lying adjacent to or in close proximity with the Property (but which does not presently comprise any part of the Development) which Developer may from time to time submit and add to the provisions of this Declaration pursuant to the provisions of Section 2.2 below. The Additional Property may also include additional Common Areas and Lakes.

1.2 Articles of Incorporation. The term "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association and all amendments thereto.

1.3 Assessment. The term "Assessment" shall mean the Assessments to be assessed against the Owners of Lots and Dwellings pursuant to the authority vested in the Association under Section 6.1 hereof, and such term shall include Common Area Assessments, Lake Lot Assessments, and individual Assessments where no distinction is required.

1.4 Association. The term "Association" shall mean Highland Lakes Residential Association, Inc., an Alabama nonprofit corporation.

1.5 Board. The term "Board" shall mean and refer to the Board of Directors of the Association and their duly elected successors as may be provided in the Articles of Incorporation and Bylaws.

1.6 Bylaws. The term "Bylaws" shall mean and refer to the bylaws of the Association, as the same may be amended from time to time.

1.7 Common Areas. The term "Common Areas" shall mean and refer to all real and personal property now or hereafter owned or otherwise acquired by lease, easement or otherwise, by the Developer or the Association for the common use and enjoyment of the Owners, whether located within the Property, adjacent to the Property or in close proximity to the Property. The Common Areas shall include (a) Common Roads and the Development Entrance Area (other than any such private roadways which are located solely within the boundary lines of any Lot or Dwelling), (b) all signage, street lights, lighting, walkways, sidewalks, paths, bicycle and jogging paths and lanes, gates, walls, fences, guardhouses, improvements, landscaping and landscaped or other areas, including all medians within any public or private roadways (other than any such areas located solely within the boundary lines of any Lot), (c) all storm drains and sewers, drainage and/or watershed protection or retention ponds, basins or other areas and facilities located within the Development (excluding Lakes (herein defined) and such areas as are located solely within the boundaries of any Lot), (d) all maintenance areas and parking areas (other than such areas located solely within the boundary lines of any Lot), (e) all utility lines, pipes, ducts, conduits, equipment, machinery and other apparatus and appurtenances which are located in or serve any portion of the Common Areas, and (f) all parks, scenic lake view areas, nature trails, recreational facilities and areas, and any other areas or Improvements which are designated as Common Areas by Developer or the Association from time to time in accordance with this Declaration. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment or any other rights, licenses or benefits therein or to the use thereof, and the use and management of such Common Areas shall be exclusively governed by the terms and conditions of this Declaration. **The Lakes [herein defined] are not part of the Common Areas.**

1.8 Common Area Assessment. The Common Area Assessment shall mean and refer to any and all assessments imposed by the Association to pay Common Area Expenses in accordance with the provisions of Article VII of this Declaration.

1.9 Common Area Expenses. The term "Common Area Expenses" shall mean and refer to all expenditures made or incurred by or on behalf of the Association in connection with the maintenance, repair, improvement, alteration and management of the Common Areas, including, without limitation, those expenses described in Section 7.3(e) below, together with all funds assessed for the creation or maintenance of reserves pursuant to the provisions of this Declaration.

1.10 Common Roads. The term "Common Roads" shall mean the roads located within or abutting the Property that are reflected on the record maps for each Sector within the Property, including without limitation, Highland Lakes Drive and any additions thereto and extensions thereof. The Common Roads shall be owned or otherwise held by Developer or the Developer may transfer all or a portion of its rights to the Association. Common Roads shall not be dedicated roads, and if dedicated to the public as herein authorized, the portion of the road so dedicated shall no longer be a Common Road.

1.11 **Declaration.** The term "Declaration" shall mean and refer to this Declaration of Easements and Master Protective Covenants for Highland Lakes, a Residential Subdivision, and all amendments thereto.

1.12 **Developer.** The term "Developer" shall mean Highland Lakes Development, Ltd., an Alabama limited partnership, its successors and assigns.

1.13 **Development.** The term "Development," with an initial capital letter, shall mean and refer to the Property and all Improvements thereon and any of the Additional Property submitted to the provisions of this Declaration as a Sector, Common Area or Lake pursuant to Section 2.2 hereof together with Improvements thereon.

1.14 **Development Entrance Area.** The term "Development Entrance Area" shall mean the property described under that certain Subordination and Property Management Agreement between Highland Scenic Overlook, Inc. and Developer as recorded in Instrument #1993-15706 in the Probate Office of Shelby County, Alabama.

1.15 **Dwelling.** The term "Dwelling," with an initial capital letter, shall mean and refer to any improved Lot intended for use as single-family detached residential housing units.

1.16 **Governmental Authority.** The term "Governmental Authority" shall mean any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Development.

1.17 **Highland Lakes Drive.** The term "Highland Lakes Drive" shall mean and refer to that certain roadway and all improvements, alterations, and additions thereto which may be made to such roadway from time to time so that it will serve as the principal arterial road providing access to and from U.S. Highway 280 through the Development Entrance Area to the Property.

1.18 **Immediate Family.** The term "Immediate Family" shall include the lineal descendants of the applicable person and his or her spouse who are then residents of the applicable Dwelling.

1.19 **Improvement.** The term "Improvement," with an initial capital letter shall mean and refer to all Dwellings, any building, structure or device constructed, erected or placed upon any Lot or Common Area which in any way affects the exterior appearance of any Lot, Dwelling, or Common Area. Improvements shall include, by way of illustration and not limitation, buildings, sheds, foundations, covered patios, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, trees, shrubbery, landscaping, fences, screening, walls, signs and any other artificial or man-made changes or alterations to the natural condition of any Lot or Dwelling. "Improvements" shall also mean any grading, any excavation or fill, the volume of which exceeds eight (8) cubic yards.

1.20 **Institutional Mortgagee.** The term "Institutional Mortgagee" shall mean and refer to any federal or state chartered bank, trust company, life insurance company, federal or state savings and loan association, real estate investment trust or other recognized lending institution which normally and customarily engages in the business of making mortgage loans and shall include any institutional or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, which holds a first Mortgage on any Lot or Dwelling which has been duly and properly recorded in the Probate Office of Shelby County, Alabama.

1.21 **Interior Lot Owners.** The term "Interior Lot Owners" shall refer to Owners of Lots or Dwellings other than Lake Lots or Lake Dwellings.

1.22 **Lakes.** The term "Lakes" shall mean and refer to those lakes, spillways, dams and related bottom structures that are described in the Lake Easement Agreement between Highland Lakes Properties, Ltd. and Developer recorded as Instrument #1993-15705 in the Probate Office of Shelby County, Alabama, and any other lakes, spillways, dams and related bottom structures that may be acquired by the Association or the Developer as Additional Property for the benefit of the Lake Lot Owners under Section 2.2 of the Declaration. The Lakes shall not include drainage or watershed protection devices such as retention ponds, basins and other facilities that are designated as Common Areas by the Association.

1.23 **Lake Lot Assessments.** The term "Lake Lot Assessments" shall mean and refer to the assessments imposed against the Lake Lot Owners for the payment of "Lake Related Expenses" in accordance with Article VIII below.

1.24 Lake Lot or Lake Dwelling. The term "Lake Lot" or "Lake Dwelling" shall mean and refer to each Lot or Dwelling within the Property that abuts or lies contiguous to a Lake.

1.25 Lake Lot Owners. The term "Lake Lot Owners" shall mean and refer to the Owner of any Lake Lot or Lake Dwelling.

1.26 Lake Related Expenses. The term "Lake Related Expenses" shall mean and refer to all expenditures incurred by the Developer or the Association for the maintenance, repair, improvement, alteration and management of the Lakes, including, without limitation, those expenses described in Section 8.3(e) below, together with all funds assessed for the creation of maintenance of reserves for such expenditures as authorized under this Declaration.

1.27 Lot. The term "Lot" shall mean and refer to any unimproved portion of the Property upon which it is intended that a Dwelling be constructed thereon. Upon the recordation of any subdivision plat for any portion of the Property, each lot indicated thereon shall be deemed a Lot for purposes of this Declaration. A parcel of land shall be deemed unimproved and thus considered to be Lot rather than a Dwelling, until the Improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon such completion, such Lot and the Improvements thereon shall collectively be considered to be a Dwelling for purposes of this Declaration. In the event any Lot is resubdivided by Developer pursuant to the provisions of Section 2.6 hereof, the resubdivided Lots shall constitute the number of Lots which remain after such division or combination of Lots. The term Lot shall refer to Lake Lots and Interior Lots where no distinction is required.

1.28 Mortgage. The term "Mortgage," with an initial capital letter, shall mean and refer to any mortgage, deed of trust or other security device encumbering a Lot or Dwelling or any interest therein and which shall have been duly and property recorded in the Probate Office of Shelby County, Alabama.

1.29 Mortgagee. The term "Mortgagee," with an initial capital letter, shall mean and refer to the holder of any Mortgage and shall include any Institutional Mortgagee.

1.30 Occupant. The term "Occupant" shall mean and include any Owner or Tenant (including any member of their respective Immediate Families) and guests, agents, servants, employees or invitees of any Owner or Tenant and any other person who occupies or uses any Dwelling within the Development. All actions or omissions of any Occupant is and shall be deemed the action or omission of the Owner of such Dwelling.

1.31 Owner. The term "Owner," with an initial capital letter, shall mean and refer to the record owner, including Developer, of fee simple title to any Lot or Dwelling, whether a corporation, partnership, proprietorship, association or other entity of any nature, including natural persons, but shall not include (i) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot or Dwelling at the foreclosure sale held with respect to the foreclosure of such Mortgage or (ii) any Tenant, purchaser, contract purchaser or vendor who has an interest in any Lot or Dwelling solely by virtue of a lease, contract, installment contract or other agreement. The term "Owner" shall refer to Lake Lot Owners and Interior Lot Owners where no distinction is required.

1.32 Property. The term "Property," with an initial capital letter, shall mean and refer to that certain real property situated in Shelby County, Alabama which is more particularly described in the Plat of Highland Lakes, First Sector, recorded in Map Book 18, Page 37 A-G inclusive, in the Probate Office of Shelby County, Alabama, and the rights in and to the property acquired by the Developer for the benefit of the Owners of Lots within said property under the documents described on Exhibit A hereto, which is attached hereto and incorporated herein by reference. The Property shall also include any Additional Property made subject to this Declaration pursuant to Section 2.2 hereof.

1.33 Sector. The term "Sector" shall mean and refer to any portion of the Property that has been subdivided into single-family residential Lots that is reflected in a separate subdivision plat that has been recorded in the Probate Office of Shelby County, Alabama, including, without limitation, Highland Lakes, First Sector.

1.34 Sector Covenants. The term "Sector Covenants" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions of Highland Lakes, a Residential Subdivision, First Sector, recorded or to be recorded simultaneously herewith, and such other Declarations of Covenants, Conditions and Restrictions to which the Developer is required to subject a Sector as a condition to the inclusion of such Sector as Additional Property under Section 2.2 below.

1.35 Sector ARC. The term "Sector ARC" shall mean and refer to the Architectural Review Committee for the First Sector as established under the Declaration of Covenants, Conditions and Restrictions of Highland Lakes, a Residential Subdivision, First Sector, recorded or to be recorded simultaneously with the Declaration and any additional Architectural Review Committees created under the Sector Covenants with respect any other Sector.

1.36 Tenant. The term "Tenant" shall mean and refer to any person who is residing in a Dwelling under a lease with the Owner of the Dwelling pursuant to which the Owner has agreed to provide such person the exclusive right to use the Dwelling as a residence for a period of not less than six months.

ARTICLE II

PROPERTY SUBJECT TO THE DECLARATION

2.1 General Declaration. Developer hereby declares that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of this Declaration and the Property, any part thereof and each Lot, Dwelling, and all Common Areas and Lakes included therein shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to the terms of this Declaration, which easements, covenants, conditions, restrictions, charges, liens and regulations shall run with the title to the Property and shall be binding upon and inure to the benefit of Developer and upon all Owners and Occupants of the Property and any Lot, Dwelling, Common Area and Lake thereof. **This Declaration shall apply to each Sector within the Property, but shall not apply to any other property owned by Developer unless the same is subjected to this Declaration specifically by written instrument in accordance with Section 2.2 below.**

2.2 Additional Property. Developer reserves the right, in its sole and absolute discretion, at any time and from time to time during the pendency of this Declaration, to add and submit any Additional Property to the provisions of this Declaration and, to the extent any of the Additional Property is specifically submitted to the terms and provisions of this Declaration by Developer, then any such Additional Property shall constitute part of the Property. Additional Property may be added as a Sector by the Developer (which may include Common Areas and/or Lakes within the Sector) or may be added as a Common Area or Lake by either the Developer or the Association subject to the following terms and conditions.

(a) In the event that the Developer desires to add a Sector (which may include Common Areas and/or Lakes) as Additional Property, the Sector shall not be included as Additional Property until all of the following conditions have been satisfied:

(i) The Developer shall have prepared a subdivision plat providing for the subdivision of the Sector into Lots, Common Areas and Lakes in accordance with the requirements of the applicable Governmental Authority and after said Governmental Authority shall have approved the subdivision plat for the Sector, the same shall have been filed for record with the Judge of Probate of Shelby County, Alabama;

(ii) Promptly after the subdivision plat for the Sector is filed for record, but not later than the conveyance of the first Lot in the Sector to a person other than the Developer, the Sector shall be submitted to Sector Covenants by filing the Sector Covenants executed by the Developer which include a reference to the description of the property included in the Sector by reference to the Map Book and page number at which the subdivision plat for the Sector is recorded in the Probate Office of Shelby County, Alabama;

(iii) The Sector Covenants shall include architectural standards and use restrictions that are consistent with, but not necessarily the same as, the standards and restrictions in the existing Sector Covenants and shall establish an Architectural Review Committee as the Sector ARC for such Sector with the responsibility for implementing and enforcing the architectural standards and use restrictions in said Sector;

(iv) Promptly after the subdivision plat is filed for record, but not later than the conveyance of the first lot in the Sector to a person other than the Developer, the Sector shall be submitted to this Declaration by an instrument executed by the Developer and the Association in the manner for the execution of deeds and recorded in the Probate Office of Shelby County, Alabama, which instrument shall be deemed an amendment to this Declaration (which need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot or Dwelling) and shall (a) refer to this Declaration stating the Instrument Number in the Probate Office of Shelby County, Alabama where this Declaration is recorded, (b) contain a statement that such Sector is conveyed subject

to the provisions of this Declaration, (c) contain an exact description of such Sector and (d) state such other or different covenants, conditions and restrictions as the Developer, in its sole discretion, shall specify to regulate and control the use, occupancy and improvement of such Sector; provided that the aforesaid conditions shall be deemed to be satisfied if the property to be added as a Sector shall be submitted as additional property under Sector Covenants previously recorded with respect to a Sector that is a portion of the Property, in which event the Sector ARC for such additional Sector shall be the Sector ARC appointed or elected under the Sector Covenants to which such Sector is submitted as additional property.

(b) In the event that the Developer desires to add Common Areas and/or Lakes as Additional Property, the Common Areas and/or Lakes shall not be included until all of the following conditions have been satisfied:

(i) The Developer shall have conveyed or caused to be conveyed to the Association fee simple title to the real property and Improvements comprising the Common Area and/or Lake, or shall have granted or caused to be granted an easement for the benefit of the Association and/or the Owners for the use and enjoyment of the real property and Improvements comprising the Common Areas and/or Lakes; and

(ii) Such document of conveyance shall be evidenced by an instrument executed by the Developer and the Association in the manner for the execution of deeds and recorded in the Probate Office of Shelby County, Alabama (which instrument need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot or Dwelling) and shall (a) refer to this Declaration stating the Instrument Number or other recording information in the Probate Office of Shelby County, Alabama, where this Declaration is recorded; (b) contain a statement that such Common Areas and/or Lakes are conveyed subject to the provisions of this Declaration; (c) contain an exact description of such Common Areas and/or Lakes; and (d) state such other or different covenants, conditions and restrictions as the Developer in its sole discretion shall specify regulate and control, use, occupancy and improvement of such Common Areas and/or Lakes.

(c) In no event shall Developer be obligated to submit any Additional Property to the provisions of this Declaration or to impose any of the covenants, conditions or restrictions set forth in this Declaration upon any real property owned by Developer situated adjacent to or in close proximity with the Development. Notwithstanding anything provided in this Declaration to the contrary, (1) the provisions of this Section 2.2 may not be abrogated, modified, rescinded, supplemented or amended, in whole or in part, without the prior written consent of Developer and (2) the rights reserved by Developer pursuant to this Section 2.2 shall not be deemed to inure to the benefit of any transferee or purchaser of the Additional Property or any portion thereof, unless Developer, in its sole discretion, transfers and conveys to such transferee or purchaser the rights reserved herein by express reference to Section 2.2 of this Declaration.

2.3 Right of Developer to Modify Restrictions with Respect to Lots. With respect to any Lot owned by Developer, Developer may, by deed, contract or other instrument filed for record in the manner specified in Section 2.2 above, modify the provisions of this Declaration as the same apply to any such Lot; provided, however, that this Declaration may not be modified or amended to exempt any Lot, or any Dwellings situated thereon from the payment of the Assessments.

2.4 Mutuality of Benefit and Obligation. The provisions of this Declaration are made (a) for the mutual and reciprocal benefit of each Lot, Dwelling, Common Area and Lake within the Development and are intended to create mutual, equitable servitudes upon and in favor of each Lot, Dwelling, Common Area or Lake, (b) to create reciprocal rights and obligations between the respective Owners and all future and subsequent Owners of any Lot, Dwelling, Common Area or Lake within the Development and (c) to create a privity of contract and estate between the Owners, their respective heirs, successors and assigns.

2.5 Development of Property. Developer shall have the right, but not the obligation, for so long as Developer owns any Lot or Dwelling in the Development, to make improvements and changes to all Common Areas and Lakes and to all Lots or Dwellings owned by Developer, including, without limitation, (i) installation and maintenance of any Improvements in or to the Common Areas and/or Lakes, (ii) changes in the location of the boundaries of any Lots or Dwellings owned by Developer or of the Common Areas, (iii) changes in the boundaries between the Lakes and any portion of the Property owned by Developer, including any Additional Property owned by Developer, (iv) installation and maintenance of any water, sewer and any other utility systems and facilities within the Common Areas or easements therefor, and (v) installation of security and trash and refuse facilities.

2.6 Subdivision Plat. Subject to the provisions of Section 2.2 above, Developer reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, a subdivision plat for any Sector included within the Property setting forth such information as Developer may deem necessary with regard to the Development, including, without limitation, the locations and dimensions of all Lots, Dwellings, Common Areas, Lakes, Additional Property, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, retention ponds and drainage basins. Any such subdivision plats or any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into this Declaration. Notwithstanding anything provided to the contrary in this Declaration, Developer may at any time or from time to time divide and redivide, combine and resubdivide any Lots owned by Developer.

ARTICLE III **EASEMENTS**

3.1 Grant of Nonexclusive Easements to Owners.

(a) Subject to the terms and conditions of this Declaration and the rules and regulations from time to time established by the Board, Developer does hereby grant to each Owner and Occupant the nonexclusive right, privilege and easement of access to and the use and enjoyment of the Common Areas in common with Developer, its successors and assigns, and all other Owners and Occupants. Subject to the provisions of Sections 3.3 below, the easement and rights granted pursuant to this Section 3.1(a) are and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each Lot and Dwelling. The easements and rights granted pursuant to this Section 3.1(a) are expressly subject to the rights reserved by Developer to restrict access to the Common Roads and the Lakes as provided in Sections 3.3 and 3.4 below and to take any action necessary or desired in order to cause any of the private roadways within the Development to be dedicated to and accepted as a public roadway by any Governmental Authority, as provided in Section 3.3 below.

(b) **Recreational Facilities.** Subject to the terms and provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board, each Owner and Occupant shall have the nonexclusive right, privilege and easement of access to and the use and enjoyment of the recreational areas, facilities and amenities now or hereafter located in the Common Areas. The easement and rights granted herein are and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each Lot and Dwelling.

(c) **Scenic Lake Views.** Developer does hereby reserve for itself and the Association and their respective successors and assigns, a permanent and perpetual right to establish from time to time within the Development Common Areas for unimpaired viewing of one or more of the Lakes for the benefit of all Owners and Occupants. Each Owner and Occupant shall have a non-exclusive right and license to use the Common Areas so designated for the purpose of viewing the Lakes and for such other purposes as the Association and/or the Developer may designate by rules and regulations with respect thereto. Developer and the Association each reserve the right to change the use of any such scenic lake view areas in which case the right and license herein granted shall be revoked effective upon notice of the change of use of the area.

(d) **Benefit of Easements.** The easements, rights and privileges granted in Sections 3.1 and 3.3 shall pass with each Lot and Dwelling as an appurtenance thereto and may not be severed, transferred, assigned or otherwise alienated separate or apart from a Lot or Dwelling.

3.2 Grant of Easement to Governmental Authorities. Subject to the provisions of Sections 3.3(b) and 3.3(c) below, Developer does hereby grant to each branch, bureau, department and agency of the Governmental Authorities and their respective agents, employees and representatives, a permanent, perpetual and nonexclusive easement over, across, through and upon the Common Roads within the Development forming a part of the Common Areas for the purposes of performing such duties and activities related to law enforcement, fire protection, trash and refuse collection, building inspection services, mail and package delivery, medical and emergency services and any other functions or duties to be performed by the Governmental Authorities as shall be required or appropriate from time to time.

3.3 Reservation of Controlled Access Easement.

(a) **Common Roads.** Subject to the terms and conditions set forth in this Declaration, Developer does hereby grant to each Owner and Occupant a nonexclusive easement over and upon, and the right to use for pedestrian and vehicular travel and transportation purposes, the Common Roads and the Development Entrance Area, subject to and in common with the Developer, its successors and assigns, and the rights of all other parties having any interest or rights in and to any or all of such Common Roads and Development Entrance Area. Subject to the provisions of Sections 3(b) and 3(c) below and the rights reserved by the Developer, its successors and assigns, to take any action necessary in order to cause the Common Roads or any portion thereof to be dedicated to and accepted as a public roadway by the Governmental Authority as provided in Section 3(d) below, the easement and right to use granted pursuant to this Section 3.3(a) shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with the title to each Lot or Dwelling. To the extent that the Developer is obligated to maintain or otherwise pay any portion of the costs of maintaining Highland Lakes Drive under the easement agreement recorded as Instrument #1993-15705 in the Probate Office of Shelby County, Alabama and the Development Entrance Area under the Property Management Agreement recorded as Instrument #1993-15706, or otherwise, the Association shall assume all of the Developer's obligations relating thereto and such costs shall be included as Common Area Expenses pursuant to Section 7.3(e) below.

(b) **Waiver of Unlimited Access.** Each Owner, by acceptance of a deed or other instrument conveying any interest in any Lot or Dwelling does hereby waive all rights of uncontrolled and unlimited access, ingress to and egress from such Lot or Dwelling and acknowledges and agrees that (i) in order to provide a secure and safe environment, access and ingress to and egress from the Development may be controlled, restricted and limited to exclude the general public therefrom and (ii) access, ingress to and egress from such Owner's Lot or Dwelling shall be limited to the roads, sidewalks, walkways, paths, trails and bicycle and jogging paths and lanes designated as Common Areas by Developer; provided, however, that, subject to the terms and provisions of the Declaration, vehicular and pedestrian access to and from all Lots and Dwellings shall be provided at all times.

(c) **Right to Install Security.** Developer does hereby establish and reserve for itself, the Association and their respective successors and assigns, the right and privilege, but not the obligation, to (i) maintain guarded or electronically-monitored gates controlling, limiting and restricting vehicular and pedestrian access to and from any portion of the Development and (ii) require payment of toll charges for use of any Common Roads within the Property by permitted commercial traffic or by members of the general public, provided that in no event shall any such tolls be applicable to (1) any Owner or Occupants, (2) any Mortgagee or its designated representative, (3) any of the Governmental Authorities or their designated agents and representatives or (4) Developer and those individuals designated from time to time by Developer to be afforded access to the Development.

(d) **Power of Attorney.** Notwithstanding anything provided to the contrary in this Declaration, Developer (i) does hereby establish and reserve the right, in its sole and absolute discretion, at any time and from time to time, to dedicate the Common Roads or any portion thereof as public roadways to any Governmental Authority designated by Developer without requirement that the approval or consent of any Owner, Occupant or Mortgagee be obtained and (ii) shall be and hereby is authorized and entitled to execute any and all agreements, documents, instruments and subdivision plats pursuant to which the Common Roads or any portion thereof and/or any of the private roadways within the Development are submitted for dedication as public roadways. Each Owner, by acceptance of any deed to a Lot or Dwelling, and each Mortgagee, by the acceptance of any Mortgage on any Lot or Dwelling, shall be deemed to, and each does hereby, irrevocably appoint the Developer as its respective agent and attorney-in-fact for the purpose of executing, signing, acknowledging, swearing to and recording any and all instruments, certificates, documents, agreements and subdivision plats relating to the dedication of the Common Roads or any portion thereof to any Governmental Authority as public roadways for and in the name of any such Owner and Mortgagee in their name, place and stead. The power and authority granted herein is hereby declared to be irrevocable and a power coupled with an interest which shall survive the death or dissolution of any Owner or Mortgagee and be binding on all Owners and Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns and anyone having any interest in any Lot, Dwelling, Common Areas, Lakes or in any of the easement rights created or granted in this Declaration. The rights reserved by Developer pursuant to this Section 3.3(d) may be assigned to the Association which, upon such assignment, shall have the same rights reserved herein to Developer.

(e) **Maintenance and Control of Common Roads.** Developer reserves for itself and the Association, and their respective successors and assigns, the exclusive right to maintain, repair and replace the Common Roads and the Development Entrance Area, including without limitation, sidewalks, streets, entrance ways, parking areas, landscaping, and related improvements located on or about the Common Roads and the Development Entrance Area; provided that no gates,

fences, walls, curbs or other obstructions shall be constructed which will impair the ingress and egress of vehicles and pedestrians, or the installation of utilities as herein provided, or otherwise unreasonably interfere with the easements herein granted. Developer also reserves for itself and their respective successors and assigns, the exclusive right, but not the obligation, to regulate, control and police the traffic on the Common Roads and the Development Entrance Area and from time to time to establish, modify, and enforce reasonable rules and regulations regarding the use of the Common Roads and the Development Entrance Area. The right reserved hereunder by the Developer and the Association shall terminate and be of no further force and effect as to any portion of the Common Roads and/or Development Entrance Area that is dedicated to a Governmental Authority pursuant to subparagraph (d) above.

3.4 Grant and Reservation of Easement and Restrictions With Respect to the Lakes.

(a) **Easement to Use the Lakes.** Subject to the limitations and restrictions set forth in Section 3.4(b) below and the reservation of the Developer under Section 3.4(c) below, the Developer hereby grants to each Lake Lot Owner, and his or her Immediate Family and any Tenants of a Lake Lot Owner and his Immediate Family, and their respective guests and invitees, the nonexclusive right, privilege and easement to use and enjoy the Lakes for recreational purposes, in common with the Developer, its successors and assigns, and all other Lake Lot Owners, their Tenants and their respective Immediate Families, guests and invitees. Subject to the provisions of Section 3.4(b) and 3.4(c) below, the easements and right granted pursuant to this Section 3.4(a) are and shall be permanent and perpetual, and are appurtenant to and shall pass and run with title to each Lake Lot or Lake Dwelling. The easements and rights are expressly subject to the rights reserved by the Developer to restrict the use of the Lakes under Section 3.4(b) below and the reservation of the Developer with respect to the use of the Lakes under Section 3.4(c) below.

(b) **Limitation and Restrictions Regarding the Lakes.** Each Lake Lot Owner and each Tenant of a Lake Dwelling, by acceptance of a deed or other instrument conveying any interest in a Lake Lot or Dwelling, does hereby agree that the use and enjoyment of the Lakes shall be limited to the rights granted to the Developer in and to the Lakes, under the Lake Easement Agreement between Highland Lakes Properties, Ltd. and the Developer recorded as Instrument #1993-15705 in the Probate Office of Shelby County, Alabama, and any other instrument by which the Developer or the Association may acquire an interest in, or a right to use, any of the Lakes. The use and enjoyment of the Lakes shall also be subject to the following restrictions and limitations.

(i) **Swimming Prohibited.** Swimming shall not be permitted in any of the Lakes. Swimming shall be deemed to include, without limitation, any entry of a person into a Lake whether from the shore, boat or platform and any use of a floating device other than a watercraft that is permitted under (ii) below.

(ii) **Watercraft Requirements.** No boats or other watercraft shall be permitted in or on the Lakes without prior approval of the Association. Such approval shall be in the sole discretion of the Association and shall be evidenced by an emblem or other designation from time to time adopted by the Association attached to the permitted boat or other watercraft. The criteria for the approval of boats or other watercraft shall be subject to the following limitations:

(A) No boats or other watercraft having a length of more than sixteen feet shall be permitted; and

(B) No boats or other watercraft powered by electric trolling motors having a maximum thrust of more than 50 pounds shall be permitted. No boats, jet skis, or other watercraft powered by gasoline or diesel engines shall be permitted; and

(C) No sailboats, wind surfboards or other vessels powered by wind shall be permitted.

(D) No boats or other watercraft with exteriors painted in other than dark or natural color shall be permitted.

(E) All boats and other watercraft shall have a hull made out of hard materials such as wood, fiberglass, aluminum and steel. No boats, rafts or other watercraft that are inflatable shall be permitted.

(iii) Piers and Launches. Except for common launches constructed and maintained by the Association, no piers, jetties, storage facilities, launches or other similar structures shall be constructed or located so that they extend into any portion of the Lake; provided that the Association may approve improvements for boat storage and access to the Lakes on any Lake Lot or Lake Dwelling, if substantially all of such improvements are located on the Lake Lot and do not unreasonably interfere with the natural buffer referred to in subparagraph (vi) below. All boats and other vessels shall be launched at a common launch constructed and maintained by the Association for each Lake which shall be located, constructed and maintained by the Association.

(iv) Fishing. Fishing shall be permitted subject to the following limitations. The Lakes have been designed for fishing for large mouth bass and are intended to be professionally managed to provide an environment that is conducive to the spawning and growth of large mouth bass. Fishing will be allowed only with artificial bait. No person shall transfer any fish to and from the Lakes. Fishing with live bait is absolutely prohibited.

(v) Guests. Subject to the provisions of Section 3.4(c) below, the use of the Lakes shall be permitted for only Lake Lot Owners, Tenants of Lake Lots, and their respective Immediate Families and guests; provided that guests shall not be allowed to use any of the Lakes unless they are accompanied by the Lake Lot Owner, Tenant, or a member of their respective Immediate Families on the Lake when fishing or otherwise using the Lake from a Lake Lot, boat or Common Area.

(vi) Natural Buffer. Each Lake Lot shall have a natural undisturbed buffer extending 30 to 50 feet from the normal water line of the Lake along the shore of the Lake Lot as determined by the Association unless otherwise specifically indicated on the Record Map for the Sector. Such natural buffer shall be free of any Improvements except for boat storage and access facilities that are permitted hereunder and under the applicable Sector Covenants.

(vii) Hazardous Materials. No products that are listed on any current stipulated hazardous or toxic materials list of the Environmental Protection Agency, or the Alabama Department of Environmental Management or any other Governmental Agency shall be stored or used on any Lot, except that gasoline and other petroleum products, pesticides, and fertilizers may be stored and used on a Lot for the purpose of normal and routine maintenance of grounds and the normal routine construction, repair, maintenance and operation of Dwelling and other Improvements located on a Lot, including construction materials which are stored and/or used during construction, if, in the opinion of the Board, such products or items are not stored or used in quantities or in a manner which are likely to endanger the Lakes. Notwithstanding the foregoing, no pesticides or other toxic, hazardous or harmful chemicals shall be used whatsoever within 50 feet of a Lake. Any such chemicals used or applied more than 50 feet from the Lake shall be so used and applied to prevent their spread or dissemination into the Lake.

(c) Reservation by Developer.

(i) Developer does hereby reserve for itself, its successors and assigns, the right to promulgate and enforce in accordance with this Declaration rules and regulations regarding the use of the Lakes, including without limitation, restrictions and limitations regarding the use of the common launches, boat traffic and identification, and method, time and location for fishing, and other matters reasonably related to the use of the Lakes as herein contemplated.

(ii) Developer does hereby reserve for itself and its successors and assigns and does hereby grant to Billy D. Eddleman and Douglas D. Eddleman the right to use the Lakes and the right, but not the obligation, to grant to other persons a nonexclusive right and license to use the Lakes; provided that such persons shall only have the right to use the Lakes at any one time; the use of the Lakes by such persons shall be subject to the restrictions and limitations on the use of the Lakes as herein set forth and the rules and regulations promulgated by the Developer with respect to the use of the Lakes.

(iii) Developer hereby reserves the right to grant a nonexclusive right and license to use the Lakes to certain designated persons in connection with events promoting the Development and/or the sale of Lots and Dwellings therein; provided that the Developer shall not grant such right and license in connection with more

than two promotional events in any twelve month period, and such promotional event shall not unreasonably interfere with the right of the Lake Lot Owners to use the Lakes.

(iv) Developer does hereby reserve for itself and the Association, and their respective successors and assigns, the right, but not the obligation, to grant to Interior Lot Owners a non-exclusive right to use the Lakes numbered one, three and four in the legal description of the lakes included as Exhibit C to the Lake Easement Agreement recorded as Instrument Number 1993-15705 in the Probate Office of Shelby County, Alabama, in common with the Lake Lot Owners and the Developer, and its successors and assigns; provided that the access to said Lakes by such Interior Lot Owners shall be limited to the Common Areas designated for such purpose by the Association; and provided further that the use of said Lakes by the Lot Owners shall be subject to the restrictions and limitations on the use of the Lakes as herein set forth and such rules and regulations as may be promulgated by the Developer and/or the Board with respect to the use of said lakes by Lot Owners.

(v) Notwithstanding the provisions of subparagraphs (ii), (iii) and (iv), the Developer reserves for itself and its successors and assigns the right, but not the obligation, to modify the easement herein granted to provide that the right to use any or all of the Lakes as herein provided shall be vested exclusively in the Lake Lot Owners whose Lake Lots or Lake Dwellings have at least one boundary abutting the Lake.

(d) **Liability for Violation of Restrictions.** In the event that an Owner or Occupant of a Lot or Dwelling violates any of the restrictions and limitations set forth in subparagraph (b) above, and such violation causes damage to any Lakes or the fishing condition thereof, such Owner shall be liable to the Association for the cost of curing the damage to the Lake caused by such violation which may include, without limitation, the cost of draining and restocking the Lake if recommended by a professional consultant. In the event that any such violation causes personal injury to any person or to the property of any person, the Owner shall indemnify and hold the Association and/or the Developer and their respective directors, officers, employees, successors and assigns, harmless from and against any liability the Association may have to such person to the extent that insurance proceeds available to the Association, if any, are not sufficient to satisfy any such liability.

(e) **Duty of the Association and the Developer.** The easements for the use of the Lakes granted hereby shall be used solely for non-commercial recreational purposes and the responsibility of Developer and the Association and their respective successors and assigns with respect to the Lakes for liability for injury or damage to persons (including death) or property is intended to be limited by Section 35-15-1 et seq. of the Code of Alabama 1975 (the "Statute"). However, in the event the Statute is deemed inapplicable to the Developer and/or the Association and their respective successors and assigns with regard to the Lakes, any person by his use of the Lakes pursuant to the easement granted hereunder or otherwise, shall be deemed to have constructively agreed that the Developer and/or the Association shall have no duty of care to keep the Lakes safe for entry and use by such persons, or to give any warning of hazardous conditions, use of structures or activities on or about the Lakes; and the Developer and the Association and their respective agents, employees, officers and directors and their respective successors and assigns shall have no liability for any injury to persons or property caused by any act or omission of Developer or the Association or any other person relating to or arising out of the use of the Lakes by any person.

3.5 Reservation of General Access Easement. Developer does hereby establish and reserve for itself, each Sector ARC, the Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, through and upon each Lot or Dwelling for the purpose of providing ingress to and egress from each Lot and Dwelling for (a) inspecting each Lot and Dwelling and any Improvements thereon in order to determine compliance with the provisions of this Declaration and/or applicable Sector Covenants, and (b) the performance of the respective duties of Developer, the Sector ARC and the Association hereunder, including, without limitation, taking any action required or permitted to be taken by Developer, the Sector ARC and the Association pursuant to any of the terms or provisions of this Declaration and/or the Sector Covenants; provided, however, that upon completion and occupancy of any Dwelling, then except in the event of emergencies, the foregoing easement shall be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupant of such Lot or Dwelling directly affected thereby.

3.6 Reservation of Easements With Respect to Common Areas and Lakes.

(a) **Easement Upon Common Areas and Lakes.** Developer does hereby establish and reserve, for itself, each Sector ARC, the Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, under, through and upon all of the Common Areas and Lakes for the purpose of (i) constructing Dwellings and other Improvements in and to any Lots and Dwellings, (ii) installing, maintaining, repairing and replacing any other Improvements to the Property or to the Common Areas or Lakes and (iii) doing all other things reasonably necessary and proper in connection therewith; provided, however, that in no event shall Developer have any obligation to undertake any of the foregoing. In addition to the other rights and easements established and reserved herein and regardless of whether Developer continues to own a Lot or Dwelling within the Development, Developer hereby establishes and reserves for itself and its successors and assigns, a permanent and perpetual, nonexclusive easement to have access, ingress to and egress from and the right and privilege to use and enjoy the Common Areas and all Improvements thereon for such purposes as Developer deems appropriate; provided, however, that Developer shall not exercise such rights so as to unreasonably interfere with the rights of the Owners to use the Common Areas.

(b) **Changes in Common Areas and Lakes.** Developer does hereby establish and reserve unto itself and its successors and assigns the permanent right to change, modify and realign the boundaries of any of the Common Areas, the Lakes, and any Lots or Dwellings owned by Developer. Developer further reserves the right, but shall not have any obligation, to convey by quitclaim deed to the Association at any time and from time to time any portion of the Property or any Improvements thereto to be utilized as Common Areas or Lakes, as Developer, in its sole discretion, may determine.

3.7 Reservation of Easement for Utilities. Developer does hereby establish and reserve for itself and the Association and their respective successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, under, through and upon all portions of the Common Areas, Lakes, and all Lots and Dwellings which are reasonably necessary for the purpose of installing, erecting, replacing, relocating, maintaining and operating master television and/or cable systems, security and similar systems and all utilities necessary or convenient for the use of any portion of the Development, including, without limitation, publicly or privately owned and operated electrical, natural gas, telephone, water and sewer services, storm drains and sewers, drainage systems, retention ponds, basins, dams, spillways and facilities, lines, pipes, conduits, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required, in order to provide any utility service to any portion of the Development. The easements established and reserved herein shall include the right to cut and remove trees, undergrowth and shrubbery, to grade, excavate or fill and to otherwise take all other action reasonably necessary to provide economical and safe installation, maintenance, repair, operation and replacement of all such utility services and the systems, equipment and machinery used to provide the same. The rights herein reserved by the Developer and the Association shall include, without limitation, the right to grant easements to the providers of utilities for the purposes herein established, and each of the Owners hereby appoint the Developer and/or the Association, as the case may be, irrevocably, as their attorney in fact, for the purpose of executing such documents as may be necessary and appropriate in connection with the granting of such easements. Notwithstanding anything provided in this Section 3.7 to the contrary, (i) the utilization of any of the easements and rights established and reserved pursuant to this Section 3.7 shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot, and (ii) Developer shall use good faith efforts to attempt to cause any utility company or other supplier or provider of any utility service which may utilize any of the easements and rights reserved and established pursuant to this Section 3.7 to take reasonable action to repair any damage caused by such utility company or other supplier or provider of such utility service during the exercise of any rights established and reserved herein.

3.8 Reservation of Easements for Signs, Walks, Trails, Walls and Fences.

(a) **Easement for Walks, Trails and Signs.** Developer does hereby establish and reserve for itself and the Association and their respective successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land ten (10) feet in width lying parallel to and running along the common exterior boundary between each Lot or Dwelling and any public or private roadway which is directly adjacent to and abuts such Lot or Dwelling for the purpose of constructing, installing, maintaining, repairing, operating, replacing and the use of sidewalks, walkways, trails, bicycle and jogging paths and lanes, outdoor lights, traffic directional signs and related improvements; provided, however, that neither Developer nor the Association shall have any obligation to construct any of the foregoing improvements. Each Owner may, however, be required by the Association or a Sector ARC under the Sector Covenants

to construct a sidewalk within the easement in accordance with specifications of the Association and at the location designated by the Association.

(b) **Easement for Perimeter Wall.** Developer does hereby establish and reserve for itself and the Association and their respective successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land fifteen (15) feet in width running parallel to and along the boundary of any Lot or Dwelling which constitutes the perimeter boundary of the Development or any Sector for the purpose of constructing, installing, maintaining, repairing, operating and replacing a perimeter wall, fence, mound or berm around the perimeter boundary of the Development or Sector, as the case may be; provided, however, that neither Developer nor the Association shall have any obligation to construct any such perimeter wall, fence mound or berm.

3.9 Reservation of Maintenance Easement. Developer does hereby establish and reserve for the Association and its agents, employees, successors and assigns, a permanent and perpetual right and easement to enter upon any Lot or Dwelling in accordance with and/or permitted by the applicable Sector Covenants for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash so as to maintain reasonable standards of health, fire, safety and appearance within the Development; provided, however, that such easement shall not impose any duty or obligation upon Developer or the Association to perform any of the foregoing actions.

3.10 Reservation of Environmental Easement. Developer does hereby establish and reserve for itself, each Sector ARC, the Association and their respective agents, employees, successors and assigns, a permanent and perpetual right and easement on, over, across and upon all Lots and all unimproved portions of any Dwellings for the purpose of taking any action necessary to effect compliance with any watershed, soil erosion or environmental rules, regulations and procedures from time to time promulgated or instituted by any Governmental Authorities or the Board. The easement and right established and reserved herein shall include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, the right to establish wildlife and wildflower sanctuaries, and the right to take any other action which may be required in order to satisfy the requirements of any Governmental Authorities. Except in the case of an emergency situation or a perceived emergency situation, the exercise by Developer or the Association of the rights reserved in this Section 3.10 shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot.

3.11 Flowage Easement. Every Lot in the Property shall be subject to an inundation or a flowage easement to an elevation five feet above normal pool of each of the Lakes. Drainage flow shall not be obstructed or diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as may hereafter appear on any plat of record in which reference is made to this Declaration. Developer or the Association may cut drainways for surface water wherever and whenever such action may appear to Developer or the Association to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health and appearance. Except as provided herein, existing drainage shall not be altered in such a manner as to divert the flow of water onto any Lot or Dwelling or Common Area. The provisions hereof shall not be construed to impose any obligation upon Developer or the Association to cut any such drainway. No permanent structure may be constructed or placed in such flowage easement area. Each Lot Owner also agrees, by acceptance of a deed to a Lot to assume, as against Developer or the Association, all the risks and hazards of ownership or occupancy attendant to such Lots, including but not limited to its proximity to waterways.

ARTICLE IV **ASSOCIATION**

4.1 Membership. Each person serving on a Sector ARC shall be a member of the Association. Membership or the rights and benefits in the Association may not be transferred, assigned, conveyed or otherwise alienated in any manner. Each member of the Association shall at all times comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws and all rules and regulations which may from time to time be adopted by the Board or the members of the Association.

4.2 Board. The Board shall have the rights and duties set forth in the Articles of Incorporation and the Bylaws. Developer hereby retains and shall have the right to appoint or remove, with or without cause, any member or members of the Board and any officer or officers of the Association until such time as there is no Lot without a Dwelling constructed thereon within the Development, or the Developer elects to terminate its exclusive voting rights, whichever shall first occur. Each Owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, vests in Developer such authority to appoint and remove members of the Board and officers of the Association as provided by this Section 4.2.

4.3 Voting Rights. Subject to the rights reserved to Developer in the Articles of Incorporation and Bylaws (which, among other things, provide that only Developer, for so long there is any Lot without a Dwelling constructed thereon in the Development, shall be exclusively entitled to take various actions and vote on all matters to be voted on by the members of the Association), each member shall be entitled to vote such number of votes as is equal to his proportionate share of the Lots located within the Sector represented by the Sector ARC on which such member serves on any matter submitted to the members of the Association. The number of votes for each member shall be determined by dividing the number of Lots in the applicable Sector by the number of members serving on the applicable Sector ARC on the record date. Such voting rights shall continue to apply to each member upon the addition of any of the Additional Property to this Declaration. Fractional voting shall not be permitted. Each member shall cast all his votes either in favor of, in opposition to, or in abstention of any matter subjected to a vote of the members of the Association.

4.4 Duties and Powers of Association. In addition to the rights, duties, responsibilities and obligations of the Association otherwise set forth in this Declaration, the Association shall have the power to do, cause to be done and otherwise perform or cause to be performed any of the duties and powers set forth in the Articles of Incorporation and the Bylaws. The Association may exercise any other right or privilege granted to it expressly by this Declaration, any of the Sector Covenants, or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. In the event of any conflict, ambiguity or inconsistency between the Code of Alabama 1975, this Declaration, the Sector Covenants, the Articles of Incorporation, the Bylaws or any rules and regulations adopted from time to time by the Association, then the provisions of the Code of Alabama 1975, this Declaration, the Articles of Incorporation, the Bylaws, the Sector Covenants, and any rules and regulations adopted by the Association, in that order, shall prevail. The powers of the Association shall include, but not be limited to, (i) the power to purchase one or more Lots and/or Dwellings and any other real or personal property, whether tangible or intangible, and to hold, lease, mortgage, sell and otherwise convey the same, (ii) subject to the provisions of this Section 4.4, the right to borrow money for the purpose of acquiring additional Common Areas and/or Lakes, for constructing, repairing, maintaining or improving the Common Areas and/or Lakes, or any portion thereof, or for providing any of the services authorized herein, (iii) subject to the provisions of this Section 4.4, the right to give Mortgages or other security instruments encumbering all or any part of the Common Areas and/or Lakes as security for any loan obtained by the Association; provided, however, that the lien and encumbrance of any such Mortgage shall be subject and subordinate to all of the rights, interests, privileges, easements, licenses, and options reserved or established herein for the benefit of Developer, each Sector ARC, the Association and all Owners and Occupants, (iv) the right to grant and accept easements, (v) the right to dedicate or transfer fee simple title to all or any portion of the Common Areas and/or Lakes to any Governmental Authority; provided, however, that except as provided in Section 3.3(d) above, the dedication or transfer of title to any of the Common Areas must be approved by a majority of the Members present in person or by proxy or a duly held meeting of the Association called for such purpose and (vi) the right to arrange with any of the Governmental Authorities or any public or private utilities or others, for the furnishing of trash collection, water, sewer and/or security services for the Common Areas, Lakes and/or the Lots and Dwellings. For so long as Developer shall own any Lot or Dwelling, the Association shall not, without the consent of Developer, borrow money or pledge, mortgage, encumber, sell or otherwise convey any interest it may have in the Common Areas and/or the Lakes. Except as otherwise specifically provided to the contrary herein, in the Articles of Incorporation or in the Bylaws, the powers and authority granted to the Association may be exercised by the Board, acting through the officers of the Association, without further consent or action on the part of the Members.

4.5 Agreements. Subject to the conditions, restrictions and other provisions of this Declaration, all agreements, actions and determinations lawfully authorized by the Board shall be binding upon all Owners, their heirs, executors, personal representatives, administrators, successors and assigns and all others having any interest in the Development. In performing its responsibilities hereunder, the Association, through the Board, shall have the right and authority to delegate to such persons of its choice such duties of the Association as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the

Association shall deem necessary or desirable for the proper operation of any portion of the Development, whether such personnel are furnished or employed directly by the Association or by independent contract with the Association. All costs and expenses incurred incident to the employment of a manager of the Development or any of the Common Areas shall be a Common Expense. All costs and expenses incurred incident to the employment of a manager of the Lakes shall be a Lake Related Expense. During the term of any such management agreement entered into by the Association with a third party, such manager may, if authorized by the Board, exercise all the powers and shall be responsible for the performance of all of the duties of the Association, excepting any of such powers or duties specifically and exclusively reserved to the Board or the officers of the Association by the Declaration, the Articles of Incorporation or the Bylaws. Such manager may be an individual, corporation or other legal entity and may be bonded in such manner as the Board may require, with the costs of such bond to be a Common Expense. In addition to the foregoing, the Association may pay for and the Board may hire and contract for such legal and accounting services as are necessary or desirable in connection with the operation of the Development, or the enforcement of this Declaration, the Sector Covenants, the Articles of Incorporation, the Bylaws or any rules and regulations of the Association.

4.6 Management by Developer or its Affiliates. Developer or any affiliate thereof may be employed as the manager of the Association and the Development for so long as Developer owns any Lot or Dwelling within the Development, at such compensation and on such terms as would be usual, customary and obtainable in an arms-length transaction with any third party providing comparable services for any real estate development in the southeastern United States of the size, quality and nature of the Development. Each Owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, shall be deemed to ratify the provisions of this Section 4.6 and specifically be deemed to have approved any such management agreement entered into by the Association and Developer or any affiliate thereof.

4.7 Rules and Regulations. The Board may establish and enforce reasonable rules and regulations governing the use of all Lots, Dwellings, Lakes, and Common Areas. Without limiting the foregoing, the Board may adopt rules and regulations which shall govern the use of any of the Lakes and Common Areas (including, specifically, the use of any of the Common Roads and recreational facilities, if any, situated within the Common Areas), the establishment of bird sanctuaries, wildlife and wildflower areas, the enforcement of all of the terms and provisions of this Declaration and any rules and regulations adopted by the Board and such other matters, including, without limitation, the limitation, restriction or prohibition of application of fertilizers, pesticides, and other chemicals within the Development. Copies of such rules and regulations shall be binding upon all Owners and Occupants until and unless such rule or regulation is specifically overruled, cancelled or modified by the Board or by the majority vote of the total votes of the Association at any regular or special meeting of the Association; provided, however, that no such rules or regulations may be overruled, cancelled or modified unless such action is also approved by Developer for so long as Developer owns a Lot or Dwelling in the Development.

4.8 Indemnification. The Association shall and does hereby indemnify, defend and agree to hold harmless each and every officer, agent, representative and member of the Board of the Association, each member of a Sector ARC, and the Developer, and its partners, agents, and representatives, from and against any and all expenses, including court costs and reasonable attorney's fees, suffered, paid or incurred by any such person in connection with any action, suit or other proceedings (including the settlement of any suit or proceedings if approved by the Board) to which such person may be made a party by reason of being or having been an officer, agent, representative or member of the Board of the Association or a member of a Sector ARC or by reason or actions taken or not taken in connection with the rights and obligations imposed upon any of such persons under this Declaration and/or the Sector Covenants. The officers, agents, representatives and members of the Board of the Association, the members of a Sector ARC and the Developer, and its partners, agents, and representatives, shall not be liable for any mistake in judgment, negligence or otherwise except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The officers, agents, representatives and members of the Board of the Association, the members of a Sector ARC and the Developer, and its partners, agents, and representatives, shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall and does hereby indemnify, defend and agree to forever hold each such person harmless from any and all liability to others on account of any such contract or commitment. The indemnification obligations and rights provided for herein shall not be exclusive of any other rights to which any officer, agent, representative or member of the Board of the Association or any member of a Sector ARC or the Developer, or any of its partners, agents and representatives, may be entitled, including anything provided to the contrary contained in the Articles of Incorporation or the Bylaws of the Association or the Sector Covenants. The Association may maintain general liability and officers and directors liability insurance in order to fulfill its obligations under this Section 4.8 and the costs of such insurance shall constitute a Common Expense.

ARTICLE V
RESPONSIBILITIES OF THE ASSOCIATION

5.1 Maintenance of Common Areas. Except as may be otherwise provided herein to the contrary, the Association shall, to the extent it has received sufficient sums from the Owners through Common Area Assessments, maintain and keep in good repair and condition all portions of the Common Areas, which responsibility shall include the maintenance, repair and replacement of (i) all Common Roads within the Development and the Development Entrance Area, (ii) walks, trails, paths, walkways, street lights, bicycle and jogging paths and lanes, parking lots, scenic lake view areas, landscaped areas, wildlife and wildflower sanctuaries, recreational areas and other improvements made by Developer or Association within any of the Common Areas or within any of the easements encumbering the Lots or Dwellings as provided in Sections 3.1 through 3.11, inclusive, above, (iii) such security systems, guardhouses, entrance gates and utility lines, pipes, plumbing, wires, conduits and related systems, appurtenances, equipment and machinery which are a part of the Common Areas and which are not maintained by a public authority, public service district, public or private utility, or other person, (iv) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Areas, and (v) all retention lakes, ponds and other water areas (excluding the Lakes) and facilities constructed by Developer or the Association, wherever located (either within or outside of the Development so long as the same are utilized for the benefit of the Development), including, without limitation, implementing and maintaining siltation, soil erosion and sedimentation programs and otherwise dredging, cleaning and maintaining all siltation ponds and appurtenances thereto as may be necessary or otherwise required by any Governmental Authorities; and (vi) any area abutting a Lake together with access thereto which has been reserved for use by the Lot Owners pursuant to Section 3.4(c)(iv) hereof. The Association shall not be liable for injuries or damage to any person or property (1) caused by the elements, acts of God or any Owner, Occupant or other person, (2) resulting from any surface or subsurface conditions which may at any time affect any portion of the Property caused by rain or other surface water which may leak or flow from any portion of the Common Area and/or a Lake onto a Lot or Dwelling, or (3) resulting from theft, burglary or other illegal entry into the Development, any Lot or Dwelling thereof. No diminution or abatement of Common Area Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken by or performed by the Association hereunder or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association or from any action taken by the Association to comply with any requirements of the Governmental Authorities.

5.2 Maintenance of Lakes.

(a) Except as may otherwise be provided herein to the contrary, the Association shall, to the extent it has received sufficient sums from the Lake Lot Owners through Lake Lot Assessments, maintain and keep in good repair and conditions all portions of the Lakes, which responsibility shall include without limitation the maintenance, repair and replacement of (i) the dams, spillways, drains and other facilities used to regulate the water level in the Lakes; (ii) any common boat launches and private roads or drives providing access thereto for the Lake Lot Owners, their Tenants, and their respective Immediate Families and guests; (iii) the water in the Lakes when harmful chemicals or other toxic substances are present or threatened; (iv) fertilizing and restocking the fish in the Lakes; and (v) landscaping in the buffer along the shore of the Lakes.

(b) The Association shall engage a professional manager to manage the Lakes pursuant to a plan to maximize the long-term and short-term quality of fishing in the Lakes in accordance with the terms and conditions of that certain agreement between Developer and Ray Scott dated on or about October 14, 1992. The Owners of 90% or more of the Lake Lots may direct the Association to terminate the professional management of the Lakes; provided that so long as the Developer owns any Lot or Dwelling within the Development, no such termination may occur without the Developer's written consent. The Association may also engage consultants for advice in the development of the plan to maximize the fishing in the Lakes and shall, at the request of such manager or consultant, cause the Lakes to be stocked, fertilized, or otherwise maintained in the manner recommended by manager or consultant. The cost of such manager and the implementation of the plan shall be a Lake Related Expense.

5.3 Security Systems. In the event that either Developer or the Association shall install a central security system to each Dwelling within the Development, then no Owner shall be entitled to install or maintain any alternative security systems within a Dwelling, other than security systems which are appurtenant to and connected with such central security system, without first obtaining the prior written approval of the same from the Board of the Association, which approval may be given or withheld in the sole discretion of the Board; provided, however, that nothing contained herein

shall be construed to obligate either Developer or the Association to install such a central security system, and, provided, further, in the event any such security system is installed, neither Developer nor the Association shall have any responsibility to prevent, and shall not be liable for, any loss or losses due to theft, burglary or damage or any injury to persons or property caused by persons gaining access to the development.

5.4 Traffic Regulations. All vehicular traffic on the Common Roads in the Development and the Development Entrance Area shall be subject to the applicable provision of the laws of the State of Alabama and any other city or county having jurisdiction thereof concerning operation of motor vehicles on public streets. The Board of the Association is hereby authorized to promulgate, administer, and enforce reasonable rules and regulations governing vehicular and pedestrian traffic, including adopting reasonable safety measures and speed limits for the Development Entrance Area and any of the Common Roads within any portion of the Development. The Board of the Association shall be entitled to enforce such rules and regulations by establishing such enforcement procedures as it deems appropriate, including levying fines for the violation thereof. In the event of any conflict between the provisions of the laws of the State of Alabama and the traffic rules and regulations promulgated by the Association, the rules and regulations of the Association shall govern. Only drivers licensed to operate motor vehicles by the State of Alabama or by any other state in the United States may operate any type of motor vehicle within the Development. All vehicles of any kind and nature which are operated on the streets in the Development shall be operated in a careful, prudent, safe and quiet manner, with due consideration for the rights of all residents of the Development.

ARTICLE VI ASSESSMENTS

6.1 Assessments and Creation of Lien. Each Owner of a Lot or Dwelling, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Association: (a) annual Common Assessments and Special Common Area Assessments, as established and to be collected as provided in Article VII below, (b) Lake Lot Assessments and Special Lake Lot Assessments, as established and to be collected as provided in Article VIII below, and (c) individual Assessments against any particular Lot or Dwelling which are established or assessed pursuant to the terms of this Declaration, or under the Sector Covenants including, but not limited to, any fines as may be levied or imposed against such Lot or Dwelling in accordance with the provisions of the Sector Covenants and this Declaration, including without limitation, Sections 5.4 and 11.1 hereof. All Assessments, together with late charges and interest as provided in Section 6.4(a) below, and all court costs and attorneys' fees incurred by the Association to enforce or collect such Assessments, shall be an equitable charge and a continuing lien upon each Lot or Dwelling for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided in Section 6.4(c) below. Each Owner shall be personally liable for the payment of all Assessments coming due while he is the Owner of a Lot or Dwelling and his grantee shall take title to such Lot or Dwelling subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee to the Association which were the legal obligations of the grantor. All Assessments, together with late charges and interest at the Applicable Rate, as specified in Section 6.4(a) below, court costs and attorneys' fees incurred with respect thereto by the Association, shall also be a personal obligation of the person who was the Owner of the Lot or Dwelling at the time such Assessments and other costs and charges were assessed or incurred. In the event of co-ownership of any Lot or Dwelling, all of the co-Owners shall be jointly and severally liable for the entire amount of such Assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of the Association. All Assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any Lot, Dwelling, Common Area, Lake, or any other portion of the Development or any other cause or reason of any nature.

6.2 Individual Assessments. Any expenses of the Association occasioned by the conduct of less than all of the Owners or by any Owner or Occupant, or the respective family members, agents, guests, servants, employees, invitees or contractors of any Owner or Occupant, shall be specially assessed against such Owners and their respective Lots or Dwellings. The Individual Assessments provided for in this Section 6.2 shall be levied by the Board and the amount and due date of such Assessments shall be specified by the Board in a notice to such Owner. The provisions of this Section 6.2 shall apply, without limitation, to any individual Assessments levied pursuant to the provisions of this Declaration and the Sector Covenants.

6.3 Date of Commencement of Assessments. The annual Assessments provided for herein shall commence as to each Lot or Dwelling on the day on which such Lot or Dwelling is conveyed to a person other than Developer and shall be due and payable in such manner and on such schedule as may be established from time to time by the Board of the Association. Annual Assessments and any outstanding special Assessments shall be adjusted for each Lot or Dwelling according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such Lot or Dwelling is conveyed. Annual and special Assessments for Lots or Dwellings within any portion of the Additional Property hereafter submitted to the terms of this Declaration shall commence with respect to each such Lot or Dwelling on the date on which such Lot or Dwelling is conveyed to a person other than Developer, subject to proration and adjustment according to the number of months then remaining in the fiscal year of the Association and number of days then remaining in the month in which such Assessments commence. Notwithstanding anything provided herein to the contrary, Developer shall not be responsible for the payment of annual or special Assessments on any Lots or Dwellings which it or its affiliates own in the Development. Furthermore, for so long as Developer is the Owner of any Lot or Dwelling within the Development, Developer shall have the option to either pay annual Assessments on Lots or Dwellings owned by Developer or fund any deficits which may exist between the total amount of annual Assessments assessed to all other Owners and the actual costs incurred by the Association for Common Expenses and Lake Related Expenses for the Development. At such time as Developer no longer has any interest in any Lot or Dwelling within the Development, Developer shall have no further obligation of any nature to pay any Assessments or otherwise fund any deficits relating to the Common Expenses, the Lake Related Expenses, the Common Areas or the Lakes.

6.4 Effect of Non-Payment; Remedies of the Association.

(a) Each Owner of a Lot or Dwelling is and shall be deemed to covenant and agree to pay to the Association all Assessments provided for herein. In the event any Assessments or any portion thereof are not paid when due the same shall be subject to a late charge in an amount determined and uniformly applied by the Board from time to time and the Owner of such Lot or Dwelling shall be deemed in default herewith. In the event any Assessments or any portion thereof are not paid within thirty (30) days after the due date of the same, then the unpaid portion of the Assessment shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to said Owner by law (the "Applicable Rate") from and after the thirtieth (30th) day from the due date until the same is paid in full. In the event the Association employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorney's fees, court costs and all other expenses paid or incurred by the Association. The lien and equitable charge upon each Lot or Dwelling for Assessments as provided above shall also include all late charges, interest at the Applicable Rate and all attorneys' fees, court costs and all other expenses paid or incurred by the Association in attempting to collect any unpaid Assessments.

(b) In the event any Assessments or other amounts due to the Association are not paid by Owner when the same comes due, then, in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board or through any of its officers or authorized representatives, may undertake any or all of the following remedies:

(i) The Association may commence and maintain a suit at law against an Owner to enforce such charges and obligations for Assessments and any such judgment rendered in any such action shall include the late charge and interest at the Applicable Rate, as specified in Section 6.4(a) above, together with attorneys' fees, court costs and all other expenses paid and incurred by the Association in collecting such unpaid Assessments; and/or

(ii) The Association may enforce the lien created pursuant to Section 6.1 above in the manner hereinafter provided.

(c) There is hereby created a continuing lien on each Lot and Dwelling, with power of sale, which secures the payment to the Association of any and all Assessments levied against or upon such Lot or Dwelling, all late charges and interest at the Applicable Rate assessed pursuant to Section 6.4(a) above and all attorneys' fees, court costs and all other expenses paid or incurred by the Association in collecting any Assessments. If any Assessments remain unpaid for more than sixty (60) days, then the Association, through its Board or any officer or authorized representative thereof, may, but shall not be obligated to, make written demand on such defaulting Owner, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving

of such demand or, even without giving demand, the Association may file a claim of lien and perfect its lien against the Lot or Dwelling of such delinquent Owner, which claim shall be executed by any member of the Board of the Association or any officer of the Association, contain the following information and be recorded in the Probate Office of Shelby County, Alabama:

- (i) The name of the delinquent Owner;
- (ii) The legal description and street address of the Lot or Dwelling upon which the lien claim is made;
- (iii) The total amount claimed to be due including late charges, interest at the Applicable Rate, collection costs and attorneys' fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and
- (iv) A statement that the claim of lien is made by the Association pursuant to this Declaration and is claimed against such Lot or Dwelling in an amount equal to that stated therein.

The lien provided for herein shall be in favor of the Association, shall be for the benefit of all other Owners (other than those Owners in default) and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such Lot or Dwelling. Each Owner, by acceptance of a deed to any Lot or Dwelling, shall be deemed to (1) grant to and vest in the Association and/or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Association and/or its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein and (4) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

6.5 Subordination of Lien. Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any Lot or Dwelling in the Development is and shall be subordinate to the lien of any Mortgage held by an Institutional Mortgagee, but only to the extent that the Mortgage held by any such Institutional Mortgagee is recorded in the Probate Office of Shelby County, Alabama prior to the filing of a claim of lien by the Association pursuant to Section 6.4(c) above. When an Institutional Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Lot or Dwelling, then such Institutional Mortgagee or its purchaser or transferee at such foreclosure sale shall (a) not be liable for any Assessments or other charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Institutional Mortgagee was recorded in the Probate Office of Shelby County, Alabama prior to the filing of a claim of lien by the Association pursuant to Section 6.4(c) above, but (b) be liable for all Assessments and other charges levied, assessed or incurred with respect to such Lot or Dwelling from and after the date of such foreclosure sale. The foregoing shall not relieve any Owner whose Lot or Dwelling has been foreclosed from the personal obligation to pay all Assessments and any other charges levied, assessed or incurred by the Association and the Association shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage by an Institutional Mortgagee on such Owner's Lot or Dwelling.

6.6 Certificates. The Association or any officer or authorized representative thereof shall, upon request and at such reasonable charges as may from time to time be adopted by the Board, furnish to any Owner a certificate in writing setting forth whether the Assessments for which such Owner is responsible have been paid and, if not paid, the outstanding amount due and other costs and expenses due from such Owner. Such certificate shall be conclusive evidence of payment of any Assessments stated therein.

ARTICLE VII

COMMON AREA ASSESSMENTS

7.1 Purpose of Assessments. The annual and special Common Area Assessments provided for herein shall be used for the general purposes of promoting the recreational, health, safety, welfare, common benefit and enjoyment of

the Owners and Occupants of the Development and otherwise for the general upkeep and maintenance of the Development, including, specifically, the Common Areas and any Improvements thereto, but excluding, specifically, the Lakes, all as may be more specifically authorized from time to time by the Board of the Association.

7.2 Uniform Rate of Common Area Assessments.

(a) Both annual and special Assessments, as described in Sections 7.3 and 7.4 below, shall be assessed against each Lot or Dwelling in the Development at a rate according to the class of such Lot or Dwelling determined by the Board of the Association at the initial sale of the Lot to an Owner other than the Developer. The Lots within the Property will initially be divided into five classes: Class A (Mountain); Class A (Lake); Class B; Class C; and Class D. The Association may add additional classes of the Lots from time to time in the future.

(b) The Board of the Association will allocate a percentage share of the annual and/or special Common Area Assessments as to each class of the Lots. The Owner of each Lot or Dwelling shall pay his pro rata share of the percentage share of such annual or special Common Area Assessment allocated to the class of his Lot, as determined by a fraction, the numerator of which shall be the total Lots or Dwellings owned by such Owner in such class of Lots and the denominator of which shall be the total number of Lots and Dwellings within such class in the Development at the time such annual or special Common Area Assessment is levied.

(c) In the event any Additional Property is added to the Development, then the Lots and/or Dwellings within the Additional Property shall be divided into classes as herein provided and subject to the same annual or special Assessments then being paid by the Owners of all other Lots and Dwellings in the Development, subject to proration as provided in Section 6.3 above.

7.3 Computation of Annual Common Area Assessments.

(a) Notwithstanding anything provided to the contrary in this Declaration, the monthly Common Area Assessment for each Lot and Dwelling in the Development (including any Lot or Dwelling forming any part of the Additional Property) for the approximate three (3) year period commencing on the date hereof and continuing until and including December 31, 1996, shall be as follows:

For Class A (Mountain) Lots - \$35.00 per month
For Class A (Lake) Lots - \$35.00 per month
For Class B Lots - \$25.00 per month
For Class C Lots - \$20.00 per month
For Class D Lots - \$15.00 per month

The foregoing shall not limit or restrict any special Common Area Assessments levied pursuant to Section 7.4 below (with the approval of a majority of the Owners as provided therein), any Lake Lot Assessments levied against Lake Lot Owners pursuant to Article VIII below, or any individual Assessments levied in accordance with the provisions of Article VI above.

(b) Commencing with the fiscal year of the Association which begins on January 1, 1997, (i.e., from January 1, 1997 through December 31, 1997, which period is hereinafter referred to as the "Base Year") and annually thereafter, the Board of the Association shall determine and approve annually an annual budget covering the estimated Common Area Expenses for the Development for the upcoming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association with respect to the Common Areas. The amount set forth in such budget shall constitute the aggregate amount of annual Common Area Assessments for the then applicable year and each Owner shall pay his pro rata share of the same as provided in Section 7.2 above. A copy of the budget setting forth the amount of annual Assessments to be levied against each class of the Lots and Dwellings for the following year shall be delivered to each Owner. The provisions of Section 7.3(a) above shall not apply to the Base Year or any subsequent year thereafter.

(c) In the event the budget for any year after the Base Year results in the Owners being liable for the payment of annual Common Area Assessments which exceed (without regard to proration or adjustment as provided in Article VI above) the greater of either (i) fifteen percent (15%) of the annual Assessments payable for the entire immediately preceding calendar year or (ii) the percentage increase in the United States Consumer Price Index, All Urban

Consumers, United States City Average, All Items, (1982-1984 = 100) or any successor index thereto (the "Index") for January of the current year over the index for January of the Base Year (i.e., January 1994), then the budget and the amount of the annual Common Assessments shall be presented for approval by the vote of Owners of a majority of the Lots and Dwellings who are voting in person or by proxy at such meetings. The percentage increase, if any, in the Index shall be determined by subtracting the Index for January in the Base Year from the Index for January in the current year and by dividing the difference by the Index for January in the Base Year. In the event the amount of the annual Common Area Assessments does not exceed the limitations set forth above or until such time as the Owners of a majority of the Lots and Dwellings have approved such increase in the amount of the annual Assessments, then the budget approved by the Board for the then current fiscal year shall be implemented, subject to the restrictions and limitations set forth above on the amount of increase in annual Common Area Assessments.

The limitations on increases in the amount of annual Common Area Assessments provided in this Section 7.3(c) shall not be applicable to the Base Year; accordingly, the actual annual Common Area Assessments for each Lot and Dwelling for the Base Year may exceed monthly assessments reflected in Section 7.3(a) above increased by the greater of (1) fifteen percent (15%) or (2) the percentage increase in Index from the preceding calendar year.

(d) If any budget or the amount of annual Common Area Assessments collected by the Association at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of the Association for Common Area Expenses, then the Board may call a meeting of the Owners for the purpose of approving special Common Area Assessments as provided in Section 7.5 hereof. If the actual amount of annual Common Area Assessments collected in any one year exceeds the actual costs incurred for Common Area Expenses for such year, the excess shall be retained by the Association as a reserve for subsequent years' Common Area Expenses.

(e) The Common Area Expenses to be funded by the annual Assessments may include, but shall not be limited to, the following:

(i) Salaries, fringe benefits and other compensation paid and out-of-pocket expenses reimbursed by the Association for its employees, agents, officers, members of the Board and any third party contractors, when performing duties for the benefit of the Owners, without regard to their distinction as Interior Lot Owners or Lake Lot Owners;

(ii) Management fees and expenses of administration, including legal and accounting fees, incurred by the Association for the benefit of Owners without regard to their distinction as Interior Lot Owners or Lake Lot Owners;

(iii) Utility charges for any utilities serving any of the Common Areas and charges for other common services for the Development, including, without limitation, trash collection and security services;

(iv) The costs of any insurance policies purchased for the benefit of the Association as required or permitted by this Declaration, including, without limitation, fire, flood and other hazardous coverage with respect to the Common Areas, and public liability coverage for events arising out of the use or condition of the Common Areas, and such other insurance coverage as the Board determines to be in the best interest of all Owners, including errors and omissions insurance, directors and officers liability insurance and any other liability insurance coverage for the benefit of the Association, the members of the Board, any officers, employees, agents or representatives of the Association or for any of the members of a Sector ARC or for the Developer and its partner, agents and representative;

(v) The expenses of maintaining, operating, repairing and replacing any portions of the Common Areas for which the Association is responsible, including, without limitation, Common Roads and the Development Entrance Area, which maintenance and repair obligation shall include mowing, landscaping, seeding, cleaning, trash pick-up and removal, paving, repaving, striping and patching all such roadways comprising Common Areas and the Development Entrance Area;

(vi) The expenses of maintaining a security system for the Development, including, without limitation, the cost of security personnel, cost of acquiring, operating and maintaining security vehicles, the cost of operating and maintaining a guard station, the cost of acquiring, maintaining and operating an alarm system and such other costs as may reasonably be incurred in connection with the maintenance and operation of a security system for the Development.

(vii) Expenses of maintaining, operating and repairing any other amenities and facilities serving the Development (other than the Lakes) which the Board determines from time to time would be in the best interest of all of the Owners to so maintain, operate and/or repair;

(viii) The expenses of a Sector ARC which are not defrayed by plan review charges;

(ix) Ad valorem real and personal property taxes assessed and levied upon any of the Common Areas;

(x) The costs and expenses for conducting recreational, culture or other related programs for the benefit of all Owners and Occupants;

(xi) All other fees, costs and expenses incurred by the Association for the benefit of all Owners in accordance with the terms and provisions of this Declaration or which the Board, in its sole discretion, determines to be appropriate to be paid by the Association, including, without limitation, taxes and governmental charges not separately assessed against Lots or Dwellings; and

(xii) The establishment and maintenance of a reasonable reserve fund or funds (1) for inspections, maintenance, repair and replacement of any portions of the Common Areas for which the Association is responsible to inspect, maintain, repair or replace on a periodic basis, (2) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds and (3) to cover unforeseen operating contingencies or deficiencies arising from unpaid Common Area Assessments as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board.

7.4 Special Common Area Assessments. In addition to the annual Common Area Assessments authorized in Section 7.3 above and the special Assessments authorized in Sections 9.1 and 9.3 below, the Board of the Association may levy in any year special Assessments for Common Area Expenses or any extraordinary costs incurred by the Association; provided, however, that any such special Assessments (other than special Common Area Assessments levied pursuant to Sections 9.1 and 9.3 hereof) shall be approved by a majority of the votes of the Owners who are voting in person or by proxy at the meeting called for the purpose of adopting special Assessments pursuant to the provisions of Section 7.5 below. The Board may make such Special Assessments payable in one lump sum or in installments over a period of time which may, in the Board's discretion, extend beyond the then fiscal year in which said special Assessments are levied and assessed. Special Assessments shall be levied against and payable by each Owner in accordance with the provisions of Section 7.2 above; provided that the percentage share for each class of Lots with respect to the special Common Area Assessment shall be the same as the percentage share of such class of Lots for the then current annual Common Area Assessment.

7.5 Notice of Meeting and Quorum. Written notice of any meeting of the Owners called for the purpose of taking any action authorized in this Article VII shall be sent to all Owners not less than ten (10) days nor more than fifty (50) days in advance of such meetings. The presence in person or by proxy of Owners of a majority of the Lots and Dwellings shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement but the required quorum at the subsequent meeting shall be the presence in person or by proxy of Owners of at least one-third (1/3) of the Lots; provided that meetings pursuant to which special Common Area Assessments are to be levied upon each Lot or Dwelling pursuant to Section 7.4 above, there shall be no specific requirement establishing a quorum and the vote of the Owners holding a majority of the Lots and Dwellings who are voting in person or by proxy at any such special meeting shall be binding on all of the Owners. At such time as a quorum is obtained, the vote of the Owners holding a majority of the Lots and Dwellings who are voting in person or by proxy at such meeting shall be required to approve any matter in which Owners are entitled to vote hereunder.

VIII LAKE LOT ASSESSMENTS

8.1 Purpose of Lake Lot Assessments. The annual and special Lake Lot Assessments provided for herein shall be used for the general upkeep and maintenance of the Lakes, all as may be more specifically authorized from time to time by the Board of the Association.

8.2 Uniform Rate of Lake Lot Assessments.

(a) Both annual and special Assessments, as described in Sections 8.3 and 8.4 below, shall be assessed against each Lake Lot or Lake Dwelling in the Development as a uniform rate, with the Owner of each Lake Lot or Lake Dwelling being required to pay his pro rata portion of such annual and/or special Lake Lot Assessments, as determined by a fraction, the numerator of which shall be the total Lake Lots or Lake Dwellings owned by such Owner and the denominator of which shall be the total number of Lake Lots and Lake Dwellings in the Development at the time such annual or special Lake Lot Assessment is levied. Each Lake Lot and Lake Dwelling shall be subject to equal annual and special Lake Lot Assessments.

(b) Notwithstanding anything provided in Section 8.2(a) above to the contrary, in the event any Additional Property is added to the Development, then the Lake Lots and/or Lake Dwellings within the Additional Property shall be subject to the same annual or special Lake Lot Assessments then being paid by the Owners of all other Lake Lots and Lake Dwellings in the Development, subject to proration as provided in Article VI above.

8.3 Computation of Annual Lake Lot Assessments.

(a) Notwithstanding anything provided to the contrary in this Declaration, the monthly assessment for each Lake Lot and Lake Dwelling in the Development (including any Lake Lot or Lake Dwelling forming any part of the Additional Property) for the approximate three year period commencing on the date hereof and continuing until and including December 31, 1996 shall be Forty Dollars (\$40.00) per month per Lake Lot or Lake Dwelling in the Development. The foregoing shall not limit or restrict any special Assessments levied pursuant to Section 8.4 below (with the approval of a majority of the Lake Lot Owners as provided therein) any Common Area Assessments levied against all Owners under Article VII above, or any individual Assessments levied in accordance with the provisions of Section 6.2 above.

(b) Commencing with the fiscal year of the Association which begins on January 1, 1997, (i.e., from January 1, 1997 through December 31, 1997, which period is hereinafter referred to as the "Base Year") and annually thereafter, the Board of the Association shall determine and approve annually an annual budget covering the estimated Lake Related Expenses for the Development for the upcoming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association with regard to the Lakes. The amount set forth in such budget shall constitute the aggregate amount of annual Lake Related Assessments for the then applicable year and each Lake Lot Owner shall pay his pro rata share of the same as provided in Section 8.2 above. A copy of the budget setting forth the amount of annual Lake Lot Assessments to be levied against the Lake Lots and Lake Dwellings for the following year shall be delivered to each Lake Lot Owner. The provisions of Section 8.3(a) above shall not apply to the Base Year or any subsequent year thereafter.

(c) In the event the budget for any year after the Base Year results in the Lake Lot Owners being liable for the payment of annual Assessments which exceed (without regard to proration or adjustment as provided in Article VI above) the greater of either (i) fifteen percent (15%) of the annual Lake Lot Assessments payable for the entire immediately preceding calendar year or (ii) the percentage increase in the United States Consumer Price Index, All Urban Consumers, United States City Average, All Items, (1982-1984=100) or any successor index thereto (the "Index") for January of the current year over the index for January of the Base Year (i.e., January 1994), then the budget and the amount of the annual Lake Lot Assessments shall be presented for approval of the Lake Lot Owners at a meeting of the Lake Lot Owners and must be approved by the vote of a majority of the Lake Lot Owners who are voting in person or by proxy at such meetings. The percentage increase, if any, in the Index shall be determined by subtracting the Index for January in the Base Year from the Index for January for the current year and by dividing the difference by the Index for January in the Base Year. In the event the amount of the annual Lake Lot Assessments does not exceed the limitations set forth above or until such time as a majority of the Lake Lot Owners have approved such increase in the amount of the annual

Assessments, then the budget approved by the Board for the then current fiscal year shall be implemented, subject to the restrictions and limitations set forth above on the amount of increase in annual Lake Lot Assessments.

The limitations on increases in the amount of annual Lake Lot Assessments provided in this Section 8.3(c) shall not be applicable to the Base Year; accordingly, the actual annual Assessments for each Lake Lot and Lake Dwelling for the Base Year may exceed \$40.00 per annum increased by the greater of (1) fifteen percent (15%) or (2) the percentage increase in Index from the preceding calendar year.

(d) If any budget or the amount of annual Lake Lot Assessments collected by the Association at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of the Association and all Lake Related Expenses, then the Board may call a meeting of the Association for the purpose of approving special Assessments as provided in Section 8.4 below. If the actual amount of annual Lake Lot Assessments collected in any one year exceeds the actual costs incurred for Lake Related Expenses for such year, the excess shall be retained by the Association as a reserve for subsequent years' Lake Related Expenses.

(e) The Lake Related Expenses to be funded by the annual Lake Lot Assessments may include, but shall not be limited to, the following:

(i) Salaries, fringe benefits and other compensation paid and out-of-pocket expenses reimbursed by the Association for its employees, agents, officers, members of the Board and any third party contractors when performing duties primarily for the benefit of the Lake Lot Owners;

(ii) Management fees and expenses of administration, including legal and accounting fees, incurred by the Association for the primary benefit of Lake Lot Owners, including, without limitation, the engagement of a pond management company and the management of the Lakes in accordance with the plan for short term and long term quality of fishing in the Lakes developed in accordance with Section 5.2(b) hereof;

(iii) Utility charges for any utilities serving any of the Lakes and charges for other common services for the Lakes;

(iv) The costs of any insurance policies purchased for the benefit of the Association as required or permitted by this Declaration, including, without limitation, property and casualty, public liability, and such other insurance coverage relating to the ownership and use of the Lakes as the Board determines to be in the best interest of the Association;

(v) The expenses of maintaining, operating, repairing and replacing any portions of the Lakes for which the Association is responsible, including, without limitation, spillways, dams, bottom structures, boat launching ramps and private drives leading thereto;

(vi) Expenses relating to the use or operation or maintenance of the Lakes which the Board determines from time to time would be in the best interest of the Association to so maintain, operate and/or repair;

(vii) The expenses associated with maintaining security for the Lakes and the enforcement of the restrictions regarding the use of the Lakes, including without limitation the cost of security personnel, the cost of acquisition, maintenance and operation of security vehicles, and other costs reasonably associated with maintaining security for the Lakes;

(viii) Ad valorem real and personal property taxes assessed and levied upon any of the Lakes;

(ix) The costs and expenses for conducting recreational, culture or other related programs for the benefit of the Lake Lot Owners and their respective Tenants, Immediate Families and guests;

(x) All other fees, costs and expenses incurred by the Association for the benefit of the Lake Lot Owners in accordance with the terms and provisions of this Declaration or which the Board, in its

sole discretion, determines to be appropriate to be paid by the Association, including, without limitation, taxes and governmental charges not separately assessed against Lake Lots or Lake Dwellings; and

(xi) The establishment and maintenance of a reasonable reserve fund or funds (1) for inspections, maintenance, repair and replacement of any portions of the Lakes for which the Association is responsible to inspect, maintain, repair or replace on a periodic basis, (2) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds and (3) to cover unforeseen operating contingencies or deficiencies arising from unpaid Lake Lot Assessments as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board.

8.4 Special Lake Lot Assessments. In addition to the annual Lake Lot Assessments authorized in Section 8.3 above, and the special Assessments authorized in Sections 9.1 and 9.4 below, the Board of the Association may levy in any year special Lake Lot Assessments for Lake Related Expenses or any extraordinary costs incurred by the Association; provided, however, that any such special Lake Lot Assessments (other than the special Lake Lot Assessments levied pursuant to Sections 9.1 and 9.4 hereof) shall be approved by a majority of the votes of the Lake Lot Owners who are voting in person or by proxy at a meeting called for the purpose of adopting special Lake Lot Assessments pursuant to the provisions of Section 8.5 below. The Board may make such Special Lake Lot Assessments payable in one lump sum or in installments over a period of time which may, in the Board's discretion, extend beyond the then fiscal year in which said special Lake Lot Assessments are levied and assessed. Special Lake Lot Assessments shall be levied against and payable by each Lake Lot Owner in accordance with the provisions of Section 8.2 above.

8.5 Notice of Meeting and Quorum.

(a) Written notice of any meeting of the Lake Lot Owners called for the purpose of taking any action authorized in this Article VIII shall be sent to all Lake Lot Owners not less than ten (10) days nor more than fifty (50) days in advance of such meetings. The presence in person or by proxy of Owners of a majority of the Lake Lots and Lake Dwellings shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement but the required quorum at the subsequent meeting shall be the presence in person or by proxy of Owners of at least one-third (1/3) of the Lake Lots and Lake Dwellings; provided that meetings pursuant to which special Lake Lot Assessments are to be levied upon each Lot or Dwelling pursuant to Section 8.4 above, there shall be no specific requirement establishing a quorum and the vote of the Owners holding a majority of the Lake Lots and Lake Dwellings who are voting in person or by proxy at any such special meeting shall be binding on all of the Lake Lot Owners. At such time as a quorum is obtained, the vote of the Lake Lot Owners holding a majority of the Lake Lots and Lake Dwellings who are voting in person or by proxy at such meeting shall be required to approve any matter in which the Lake Lot Owners are entitled to vote, including any increase in the amount of annual Lake Lot Assessments in excess of the limitations specified in Section 8.3(c) above.

ARTICLE IX
CASUALTY, CONDEMNATION AND INSURANCE

9.1 Damage or Destruction to Common Areas and Lakes.

(a) In the event of any damage or destruction to any of the Common Areas and/or Lakes by fire, flood or other casualty, then, subject to the terms and provisions of this Article IX, the Association shall promptly repair, replace and restore the damaged portions of the Common Areas and/or Lakes to the condition to which they existed immediately prior to such fire, flood, or other casualty.

(b) Notwithstanding anything provided in Section 9.1(a) above, in the event the amount of insurance proceeds, if any, recovered as a result of such damage or destruction is insufficient to fully repair, replace and restore the damaged portions of the Common Areas and/or Lakes, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board of the Association may levy (i) a special Common Area Assessment in the case of damage to Common Areas against all Owners, without the necessity of a vote of the Owners approving or disapproving the same pursuant to Sections 7.4 or 7.5 above, which such special Common Area Assessments shall be in an amount sufficient to provide funds to pay the remaining costs necessary to repair, replace or

restore the Common Areas to the condition as existed immediately prior to such fire or other casualty, and/or (ii) a special Lake Lot Assessment in the case of damage to the Lakes against all Lake Lot Owners, without the necessity of a vote of the Lake Lot Owners approving or disapproving the same pursuant to Section 8.4 or 8.5 above, which such special Lake Lot Assessment shall be in an amount sufficient to pay the remaining costs necessary to repair, replace or restore the Lakes to the condition as they existed immediately prior to such fire, flood or other casualty. Such special Common Area Assessments shall be levied against each Owner as provided in Section 7.2 above and/or such special Lake Lot Assessments shall be levied against all Lake Lot Owners as provided in Section 8.2 above; provided that the percentage share for each class of Lots with respect to the special Common Area Assessment shall be the same as the percentage share of such class of Lots for the then current annual Common Area Assessment. Further special Assessments may be made by the Board, without the necessity of a vote of the Owners approving or disapproving the same, at any time during or upon completion of any such repair, replacement or restoration if funds are insufficient to cover the costs of such repair or restoration. Any and all insurance proceeds received by the Association on account of any damage to or destruction of any of the Common Areas and/or Lakes or any sums paid to the Association under or by virtue of such special Assessments shall be held by and for the benefit of the Association and shall be disbursed by the Association in payment for the costs of such repair or restoration in such manner as may be determined by the Board of the Association. In no event shall the Owner or Mortgagee of any Lot or Dwelling be entitled to any portion of the proceeds of insurance payable as a result of the damage to or destruction of any portion of the Common Areas and/or Lakes.

9.2 Damage or Destruction to Lots or Dwellings. In the event of any fire or other casualty which damages or destroys any portion of any Lot or Dwelling, then the Owner of such damaged Lot or Dwelling shall promptly repair and otherwise restore such Lot or Dwelling to the condition to which the same existed immediately prior to such fire or other casualty; provided, however, that any such restoration or repair shall be subject to compliance with all of the terms and provisions set forth in the Sector Covenants having jurisdiction over such Lot or Dwelling and all then applicable rules, regulations, statutes and ordinances of the Governmental Authorities. Any such restoration or repair shall be commenced within one hundred eighty (180) days following the occurrence of such fire or other casualty.

9.3 Condemnation of Common Areas.

(a) In the event of the taking of all or any portion of any of the Common Areas as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof, then the award from such taking or sale in lieu thereof shall be paid to the Association and shall be disbursed or held as follows:

(i) To the extent the Common Areas subject to such taking can either be restored or replaced, then, to the extent practicable, the Board of the Association is hereby empowered, authorized and directed to take such action, including the purchase of any remaining lands within the Development or the utilization of any other Common Areas within the Development, to restore, rebuild or replace, as the case may be, those portions of the Common Areas subject to such taking. If the award is insufficient to fully defray the cost of such repair or replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board of the Association may levy a special Common Area Assessment against all Owners, without the necessity of a vote of the Owners approving or disapproving the same pursuant to Sections 7.4 and 7.5 above, which such special Common Area Assessments shall be in an amount sufficient to provide funds to pay the remaining costs of repair, restoration or reconstruction. Such special Common Area Assessments shall be levied against each Owner as provided in Section 7.2 above; provided that the percentage share for each class of Lots with respect to the special Common Area Assessment shall be the same as the percentage share of such class of Lots for the then current annual Common Area Assessment. Further special Common Area Assessments may be made by the Board without the necessity of a vote of the Owners approving or disapproving the same, at any time during or upon the completion of any such repair, replacement or restoration of the Common Areas if the award received as a result of such taking is insufficient to pay the costs of such repair or restoration.

(ii) To the extent the Common Areas subject to such taking cannot be restored or replaced or additional lands within the Development cannot be purchased by the Association in order to repair, replace or restore the Common Areas so taken or if the Board of the Association shall determine that the portions of the Common Areas so taken should not be replaced or restored, then in

any such event, the net award from such taking shall be retained by and for the benefit of the Association.

(b) If any portion of the award from any taking remains after restoration or replacement of any of the Common Areas, the remainder of such award shall be retained by and for the benefit of the Association, without any claim thereto by any Owner. Except as specifically provided in Section 9.3(c) below, no Owner or Mortgagee of any Lot or Dwelling shall be entitled to any portion of the award made to the Association as a result of the taking of any portion of the Common Areas.

(c) If any such taking or sale in lieu thereof includes all or any part of a Lot or Dwelling and also includes any part of the Common Areas, then the award from such taking shall be equitably apportioned in accordance with the decision of a court of competent jurisdiction and such award shall be disbursed separately to the Association and to the Owners so affected by such taking; provided, however, that the Owners of any Lot or Dwelling which is subject to any such taking and the Board of the Association may mutually agree on the amount of such apportionment, which mutual agreement shall be binding on all Owners.

9.4 Condemnation of Lakes.

(a) In the event of the taking of all or any portion of any of the Lakes as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof, then the award from such taking or sale in lieu thereof shall be paid to the Association and shall be disbursed or held as follows:

(i) To the extent the Lakes subject to such taking can either be restored or replaced, then, to the extent practicable, the Board of the Association is hereby empowered, authorized and directed to take such action, including the purchase of any remaining lands within the Development or the utilization of any other Common Areas within the Development, to restore, rebuild or replace, as the case may be, those portions of the Lakes subject to such taking. If the award is insufficient to fully defray the cost of such repair or replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board of the Association may levy a special Lake Lot Assessment against all Lake Lot Owners, without the necessity of a vote of the Lake Lot Owners approving or disapproving the same pursuant to Sections 8.4 and 8.5 above, which such special Lake Lot Assessments shall be in an amount sufficient to provide funds to pay the remaining costs of repair, restoration or reconstruction. Such special Lake Lot Assessments shall be levied against each Lake Lot Owner as provided in Section 8.2 above. Further special Lake Lot Assessments may be made by the Board without the necessity of a vote of the Lake Lot Owners approving or disapproving the same, at any time during or upon the completion of any such repair, replacement or restoration of the Lakes if the award received as a result of such taking is insufficient to pay the costs of such repair or restoration.

(ii) To the extent the Lakes subject to such taking cannot be restored or replaced or additional lands within the Development cannot be purchased by the Association in order to repair, replace or restore the Lakes so taken or if the Board of the Association shall determine that the portions of the Lakes so taken should not be replaced or restored, then in any such event, the net award from such taking shall be retained by and for the benefit of the Association.

(b) If any portion of the award from any taking remains after restoration or replacement of any of the Lakes, the remainder of such award shall be retained by and for the benefit of the Association, without any claim thereto by any Owner. Except as specifically provided in Section 9.4(c) below, no Owner or Mortgagee of any Lot or Dwelling shall be entitled to any portion of the award made to the Association as a result of the taking of any portion of the Lakes.

(c) If any such taking or sale in lieu thereof includes all or any part of a Lot or Dwelling and also includes any part of the Lakes, then the award from such taking shall be equitably apportioned in accordance with the decision of a court of competent jurisdiction and such award shall be disbursed separately to the Association and to the Owners so affected by such taking; provided, however, that the Owners of any Lot or Dwelling which is subject to any such taking and the Board of the Association may mutually agree on the amount of such apportionment, which mutual agreement shall be binding on all Owners.

9.5 Condemnation of Lots or Dwellings. In the event that all or any portion of a Lot or Dwelling is taken as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof, then, to the extent practicable, the Owner of such Lot or Dwelling responsible for the maintenance and repair of such Lot or Dwelling shall promptly repair, reconstruct, rebuild and otherwise restore the remaining portions of the Lot or Dwelling as nearly as practicable to the condition to which the same existed immediately prior to such taking; provided, however, that any such restoration shall be subject to all of the terms and conditions set forth in the Sector Covenants having jurisdiction over the Lot or Dwelling, and all then applicable rules, regulations, statutes and ordinances of the Governmental Authorities. In the event the restoration of such Lot or Dwelling is impracticable or would otherwise violate any of the terms and provisions of this Declaration, then such Owner shall promptly clear away any remaining Improvements damaged or destroyed by such taking and shall leave such Lot or Dwelling and any remaining Improvements thereon in a clean, orderly, safe and slightly condition.

9.6 Insurance.

(a) The Board of the Association shall have the authority to obtain and maintain at all times adequate property and casualty insurance in such form as the Board deems appropriate for the benefit of the Association insuring all insurable Improvements in and to the Common Areas and Lakes against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism and malicious mischief, which coverage shall be in an amount, with such insurance carriers, at such costs and with such deductibles as the Board, in its sole discretion, may determine.

(b) The Board shall have the authority to obtain and maintain in effect at all times such public liability insurance coverage covering all of the Common Areas and the Lakes and any damage or injury caused by the negligence of the Developer, the Association, and a Sector ARC, and all members, directors, officers, partners, agents and employees thereof, in such amounts, with such insurance carriers, at such costs and with such deductibles as the Board, in its sole discretion, may deem necessary or desirable.

(c) The Board shall have the right and authority to obtain workman's compensation insurance, employer's liability insurance and all other types of insurance required by law, including, without limitation, errors and omissions and directors and officers liability insurance coverage, in such amounts, with such insurance carriers, at such costs and with such deductibles as the Board, in its sole discretion, may determine.

(d) All insurance coverage authorized hereunder shall be written in the name of the Association and all costs thereof shall be a Common Area Expense or Lake Related Expense, as determined in accordance with Sections 7.3(e) and 8.3(e) hereof. To the extent the same may be obtained at a nominal cost, all such policies shall contain a waiver of subrogation clause pursuant to which the insurer waives any claims against the Developer, the Sector ARCs, the manager for the Development, the Association, and the Owners and the family members, servants, agents, tenants and guests of the Owners.

(e) Each Owner shall be solely responsible for obtaining and maintaining public liability, property damage, title and all other types of insurance with respect to his Lot and Dwelling. The Board may require all Owners to carry public liability insurance with respect to their respective Lots and Dwellings and to furnish copies or certificates thereof to the Association. Each Owner, by acceptance of a deed or other instrument conveying any interest in any Lot or Dwelling, does hereby waive and release Developer, all of the Sector ARCs, the manager of the Development and the Association and their respective agents, employees, representatives, partners, shareholders, members, officers and directors, from any and all liabilities or damage covered by (or which should be covered by) fire and casualty (e.g., homeowner's and/or builder's risk) insurance and general liability insurance which any Owner maintains, even if such loss or damage has been caused by the fault or negligence of any of the foregoing persons or parties.

ARTICLE X
TERM AND AMENDMENTS

10.1 Term. The terms, covenants, conditions and restrictions set forth in this Declaration shall run with and bind all of the Property, shall inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, personal representatives, administrators, successors and assigns, and shall be and remain in effect for a period of fifty (50) years from and after the date hereof, after which time this Declaration shall be automatically renewed and extended for

successive and continuous periods of ten (10) years each, unless, at any time after fifty (50) years from the date hereof, an agreement executed by the Owners of at least two-thirds (2/3) or more of the Lots or Dwellings within the Property agreeing to terminate or modify this Declaration has been recorded in the Probate Office of Shelby County, Alabama, provided, however, that the rights of way and easements established, granted and reserved in Article III hereof shall continue and remain in full force and effect for the time periods and duration specified therein.

10.2 Amendment by Developer. For so long as there is any Lot without a Dwelling constructed thereon within the Development, Developer may amend this Declaration by a written instrument filed and recorded in the Probate Office of Shelby County, Alabama, without obtaining the approval of any Owner or Mortgagee; provided, however, that except as otherwise provided in Section 10.4 below, (a) in the event any amendment proposed by Developer materially and adversely alters or changes any Owner's rights to the use and enjoyment of his Lot or Dwelling or materially and adversely affects the title to any Lot or Dwelling, then such amendment shall be valid only upon the written consent of the Owners affected thereby (including Developer who shall have the voting rights attributable to any Lots or Dwellings owned by Developer) or (b) in the event any such proposed amendment by Developer would materially and adversely affect the title and interest of any Institutional Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Institutional Mortgagees affected thereby. Any amendment made pursuant to this Section 10.2 shall be certified by Developer and shall be effective upon recording of the same in the Probate Office of Shelby County, Alabama. Each Owner, by acceptance of a deed or other conveyance to a Lot or Dwelling, and each Mortgagee, by acceptance of a Mortgage on any Lot or Dwelling, agrees to be bound by all amendments permitted by this Section 10.2 and further agrees that, if requested to do so by Developer, such Owner and Mortgagee will consent to the amendment of this Declaration or any other instrument relating to the Development if such amendment is (i) necessary to bring any provision hereof into compliance or conformity with the provisions of any law, ordinance, statute, rule or regulation of any applicable Governmental Authority or the judicial decision of any state or federal court, (ii) necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots or Dwellings, (iii) required by any Institutional Mortgagee in order to enable such Institutional Mortgagee to make a Mortgage loan on any Lot or Dwelling, or (iv) necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on any Lots or Dwellings within the Development.

10.3 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 10.2 above, shall be proposed and adopted by the Owners in the following manner:

(a) The Owners of not less than twenty percent (20%) of the Lots within the Development may submit a written petition to the Association indicating their desire to amend the Declaration which petition shall be signed by said Owners and shall state the proposed amendment with particularity in the petition. The date of delivery of such petition to the Association shall be the record date and the Association shall establish a date, time and place for a meeting of the Owners not less than ten (10) nor more than fifty (50) days after the record date.

(b) The Association shall thereupon deliver written notice of the date, time, place and purpose of the meeting to all Owners on the record date. At the meeting, the proposed amendment must be approved by the Owners holding at least two-thirds (2/3) of the Lots in the Development in order to be adopted; provided, however, that (i) any amendment which materially and adversely affects the security, title or interest of any Institutional Mortgagee must be approved by such Institutional Mortgagee, (ii) during any period in which Developer owns a Lot or Dwelling in the Development, then Developer must approve such proposed amendment, and (iii) to the extent the proposed amendment affects any of the matters described in Section 10.4 below, then the provisions of Section 10.4 below shall be applicable to such proposed amendment.

(c) Any and all amendments which have been approved in accordance with the provisions of Section 10.3(a) and (b) above shall be set forth in a written instrument executed by the proper officers of the Association and such written instrument shall include the sworn statement of the President of the Association or the Chairman of the Board stating unequivocally that the vote of the requisite number of Owners was duly obtained in accordance with the provisions of this Declaration. Any such amendment shall be effective upon recording of the same in the Probate Office of Shelby County, Alabama.

10.4 Restrictions on Amendment. Notwithstanding anything provided in the Declaration to the contrary, in no event may any amendment to Sections 2.2, 2.3, 2.5, 2.6, 3.1 through 3.11, 4.6, 4.8, 7.2, 7.3, 8.2, 8.3, 10.2, 10.3, 10.4 and 12.1 hereof or any other provisions of this Declaration which require Developer's consent or approval be

effective unless the same is consented to in writing by Developer. The consent of Developer to any such proposed amendment may be withheld in the sole discretion of Developer, with or without any reason.

ARTICLE XI **ENFORCEMENT**

11.1 Authority and Enforcement. In addition to the provisions of Sections 3.4(d) and 6.4 above, in the event any Owner or Occupant or their respective agents, contractors invitees, violates any of the provisions of this Declaration, the Sector Covenants or the Architectural Standards promulgated thereunder, the Articles of Incorporation, the Bylaws or any rules and regulations adopted by the Board of the Association from time to time, the Board shall have the power to (i) impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot or Dwelling and shall be a personal obligation of such Owner which is guilty of such violation, or (ii) suspend an Owner's or Occupant's right (and the right of such Owner's or Occupant's family members, guests and tenants) to use any of the recreational facilities located in or upon the Common Areas or the Lakes, and the Board shall have the power to impose all or any combination of any of the foregoing sanctions. Any such suspension of rights may be for the duration of the infraction.

11.2 Procedure. In the event any of the terms or provisions of this Declaration, the Sector Covenants and the Architectural Standards promulgated thereunder, the Articles of Incorporation, the Bylaws or any rules and regulations of the Association are violated by any Owner or Occupant, or the respective agents, contractors or invitees of any Owner or Occupant, the Board shall not impose a fine, or infringe upon or suspend any other rights pursuant to Section 11.1 above unless written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violations which demand shall specify:

(i) The alleged violation;

(ii) The action required to abate such violation; and

(iii) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the Sector Covenants or the Architectural Standards promulgated thereunder, the Articles of Incorporation, the Bylaws or any of the rules and regulations of the Association may result in the imposition of sanctions. The foregoing procedure shall only be applicable to the enforcement rights specified in Section 11.1 above and shall not apply to the exercise of any of the rights and remedies specified in any other section or provision of this Declaration.

11.3 Nonexclusive Remedies. Notwithstanding anything provided to the contrary in this Declaration, the authority, enforcement and procedural rights set forth in this Article XI are in addition to and shall not be deemed to limit the other rights and remedies set forth in this Declaration or under the applicable Sector Covenants or which the Association, acting through the Board, would have the right to exercise at law or in equity.

ARTICLE XII **MISCELLANEOUS PROVISIONS**

12.1 Control by Developer. NOTWITHSTANDING ANYTHING PROVIDED TO THE CONTRARY IN THIS DECLARATION, THE ARTICLES OF INCORPORATION, THE BYLAWS OR IN ANY OTHER DOCUMENT OR INSTRUMENT RELATING TO THE DEVELOPMENT, DEVELOPER HEREBY RETAINS THE RIGHT TO APPOINT AND REMOVE ANY MEMBER OR MEMBERS OF THE BOARD OF THE ASSOCIATION AND ANY OFFICER OR OFFICERS OF THE ASSOCIATION AS PROVIDED BY AND FOR THE PERIOD OF TIME SET FORTH IN SECTION 4.2 ABOVE. Each Owner, by acceptance of a deed or other conveyance of any interest in a Lot or Dwelling, agrees that Developer shall have the authority to appoint and remove members of the Board and officers of the Association in accordance with the foregoing provisions of this Section 12.1 and the provisions of Section 4.2 above. At such time as there is no Lot without a Dwelling constructed thereon within the Development, or the

Developer elects to terminate its exclusive voting rights, whichever shall first occur, a special meeting of the Association shall be called within a reasonable time thereafter at which time the Owners shall elect a new Board which shall undertake the responsibilities of the Board and Developer shall deliver all books, accounts and records of the Association, if any, which Developer has in its possession.

12.2 Legal Expenses. In addition to the rights and remedies set forth in Sections 3.4(d) and 6.4 and in Article XI above, in the event either the applicable Sector ARC, the Developer, or the Association, through their respective agents and representatives, undertake any legal or equitable action which any of them deem necessary to abate, enjoin, remove or extinguish any violation or breach of this Declaration and/or the Sector Covenants, then all costs and expenses incurred by any of them, including, without limitation, attorneys' fees and court costs, in enforcing any of the terms, provisions, covenants or conditions in this Declaration and/or the Sector Covenants shall be paid for by the Owner against whom such action was initiated. The Sector ARC, its agents and representatives, and the Association, its agents and representatives, are each hereby authorized to take any and all legal or equitable action as may be necessary under the circumstances to restrain or enjoin any such violation or breach of the Sector Covenants establishing such Sector ARC or to otherwise seek monetary damages as a result of any expenses incurred by either the Sector ARC or the Association to cure such violation or breach.

12.3 Severability. If any provision of this Declaration or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Declaration or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision shall be valid and enforceable to the fullest extent permitted by law.

12.4 Captions and Headings. The captions and headings contained in this Declaration are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Declaration. The table of contents, cover page and any index to this Declaration are for convenience of reference only and shall not define or limit any of the terms and provisions hereof.

12.5 Pronouns and Plurals. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

12.6 Binding Effect. The terms and provisions of this Declaration shall be binding upon each Owner, Tenant, Occupant and Mortgagee and the respective heirs, executors, administrators, personal representatives, successors and assigns of each Owner, Tenant, Occupant and Mortgagee, and shall inure to the benefit of Developer, the Association and its members, all of the Owners and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

12.7 Conflict or Ambiguity. In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction against one party as a result of that party having drafted this Declaration are hereby waived by each Owner and, to the fullest extent allowed by law, no conflicts or ambiguity shall be resolved in favor or to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein.

12.8 No Reverter. No restriction or provision hereof is intended to be or shall be construed as a condition subsequent or a possibility of reverter in favor of Developer nor shall any provision be deemed to vest any reversionary interest in Developer.

12.9 Interpretation. In all cases, the provisions set forth and provided for in this Declaration shall be construed together and give that interpretation or construction which, in the opinion of Developer or the Board, will best effect the intent of the general plan of development for the Property. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication so as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date hereof. This Declaration shall be construed under and in accordance with the laws of the State of Alabama.

12.10 Rights of Third Parties. This Declaration shall be recorded for the benefit of Developer, the Association and its members, the Owners and their respective Mortgagees and by such recording, no other adjoining property owner

or third party shall have any right, title or interest whatsoever in the Development of its operation and continuation, in the enforcement of any of the provisions of this Declaration or the right to consent to or approve any amendment or modification to this Declaration.

12.11 No Trespass. Whenever the Association, Developer, a Sector ARC and their respective agents, employees, representatives, successors and assigns, are permitted by this Declaration to enter upon or correct, repair, clean, maintain or preserve or do any other action within any portion of a Lot or Dwelling, the entering thereon and the taking of such action shall not be deemed a trespass.

12.12 No Partition. Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Development.

12.13 Reservation of Rights. Notwithstanding anything provided herein to the contrary, no sale, transfer, conveyance, lease, pledge, encumbrance or other hypothecation of any Lot or Dwelling by Developer to a third party shall constitute or be deemed a transfer of any of the rights reserved herein to Developer unless express reference is made in such instrument of conveyance to the specific rights created in this Declaration which Developer is transferring to any such third party.

12.14 Standards for Review. Whenever in this Declaration Developer, the Association or a Sector ARC has the right to approve, consent to, or require any action be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of Developer, the Association or the Sector ARC, as the case may be.

12.15 Oral Statements. Oral statements or representations by Developer, the Association, a Sector ARC or any of their respective employees agents, representatives, successors or assigns, shall not be binding on Developer, the Association or the Sector ARC.

12.16 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association or, if no such address has been so designated, at the address of such Owner's respective Lot or Dwelling within the Development. All notices to the Association or to a Sector ARC shall be delivered or sent in care of Developer to the following address:

Highland Lakes Residential Association, Inc.
2700 U. S. Highway 280, Suite 325
Birmingham, Alabama 35223

or to such other address as the Association or the Sector ARC may from time to time specify in a notice to the Owners. All notices to Developer shall be sent or delivered to Developer at the above address or to such other addresses as Developer may notify the Association.

12.17 Assignment. Subject to the provisions of Section 12.13 above, Developer shall each have the right to assign any and all of the rights, powers, reservations and duties contained herein to any person or entity who shall thereupon have the same rights, power, reservations and duties as Developer.

12.18 Further Assurances. Each Owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make, or cause to be done and made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, conformity or otherwise, which may be reasonably requested by Developer, the Association or a Sector ARC for the purpose of or in connection with clarifying, amending or otherwise consummating any of the transactions and matters herein.

12.19 No Waiver. All rights, remedies and privileges granted to Developer, the Association and a Sector ARC pursuant to the terms and provisions of this Declaration shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies or privileges

as may be available to such party at law or in equity. The failure at any time to enforce any covenant or restriction set forth herein shall in no event be deemed a waiver of the right thereafter to enforce such covenant or restriction.

12.20 Perpetuities. 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 Billy D. Eddleman, Chairman of the General Partner of the Developer.

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

HIGHLAND LAKES DEVELOPMENT, LTD.,
an Alabama limited partnership

By: EDDLEMAN PROPERTIES, INC.,
an Alabama corporation,
Its General Partner

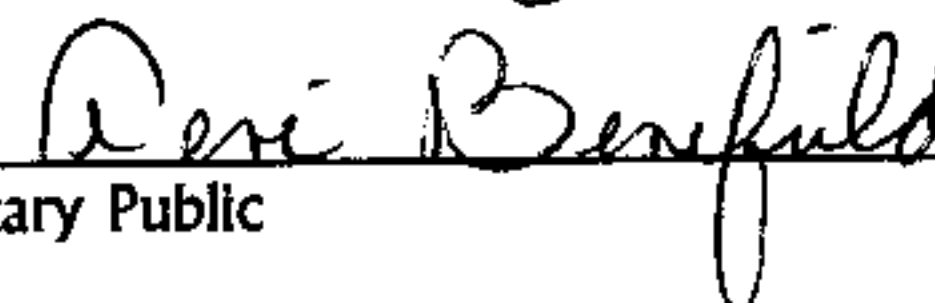
By: 
Billy D. Eddleman, Chairman and Chief
Executive Officer

By: 
Douglas D. Eddleman, President

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a notary public in and for said County in said State, hereby certify that Billy D. Eddleman, whose name as Chairman and Chief Executive Officer of EDDLEMAN PROPERTIES, INC., an Alabama corporation, which serves as general partner of HIGHLAND LAKES DEVELOPMENT, LTD., an Alabama limited partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer with full authority, executed the same voluntarily for and as the act of said corporation in its capacity as general partner.

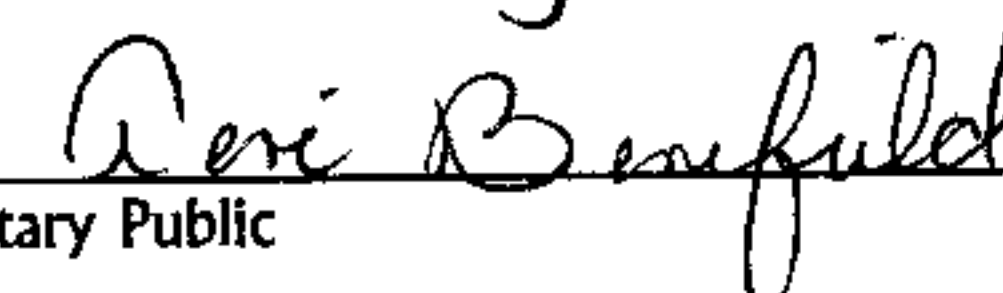
Given under my hand and official seal, this the 21st day of February, 1994.


Notary Public

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a notary public in and for said County in said State, hereby certify that Douglas D. Eddleman, whose name as President of EDDLEMAN PROPERTIES, INC., an Alabama corporation, which serves as general partner of HIGHLAND LAKES DEVELOPMENT, LTD., an Alabama limited partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer with full authority, executed the same voluntarily for and as the act of said corporation in its capacity as general partner.

Given under my hand and official seal, this the 21st day of February, 1994.


Notary Public

CONSENT OF LENDER

Compass Bank (formerly Central Bank of the South) as the holder and owner of the mortgage securing the property made subject to the above and foregoing Declaration of Easements and Master Protective Covenants for Highland Lakes, a Residential Subdivision, and recorded as Instrument #1993-15710 in the Probate Office of Shelby County, Alabama, does hereby consent to the filing of the Declaration and does hereby agree that said property shall remain subject to the terms and conditions of the Declaration if the Bank should succeed to the interest of the Developer of the Property by foreclosure of its mortgage by accepting a deed in lieu of the foreclosure.

IN WITNESS WHEREOF, the undersigned has duly executed this consent on this 22nd day of February, 1994.

COMPASS BANK

By: Philip R. Webb

Its: VICE PRESIDENT

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Philip R. Webb, whose name as Vice President of Compass Bank, an Alabama bank, and who is known to me, acknowledge before me on this day that, being informed of the contents of the above and foregoing consent, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal of office this 22nd day of February, 1994.

Aeri Benfield
Notary Public

This instrument was prepared by Jack P. Stephenson, Jr., 420 North 20th Street, Suite 3000, Birmingham, Alabama 35203.

EXHIBIT A

1. Lake Easement Agreement given by Highland Lakes Properties, Ltd., in favor of Highland Lakes Development, Ltd., as recorded in Instrument #1993-15705 in the Probate Office of Shelby County, Alabama.
2. The following permits for an Entrance to U.S. Highway 280 issued by the Alabama State Highway Department to Highland Lakes Development, Ltd.
 - Permit No. 3-5-3303 Agreement of Grading and/or Landscaping on Right of Way
 - Permit No. 3-5-3302 Special Agreement for Installation of Drainage Structures on Highway Right of Way
 - Permit No. 3-5-X053 Application for Right to Construct Median Crossover
 - Permit No. 3-5-3301 Permit to Construct Turnout to Provide Access to State Highway
3. Subordination and Property Management Agreement between Highland Scenic Overlook, Inc. and Highland Lakes Development, Ltd. as recorded in Instrument #1993-15706.

Inst # 1994-07111

Inst # 1994-07111
03/04/1994-07111
09:37 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
035 MEL 93.50