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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SUN CITY PEACHTREE

Spalding County, Georgia

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Spalding County, Georgia

THIS DECLARATION OF COVENANTS, CONDITIONS, CONDITIONS AND RESTRICTIONS is made this 1st day of November, 2007, by **PULTE HOME CORPORATION,** doing business through and under its "Del Webb" brand, a Michigan corporation ("Declarant").

Declarant is the owner of the "Properties" described in Exhibit A, which is attached hereto and incorporated herein by reference. This Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of development and improvement for the benefit of the owners of any portion of the Properties, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance thereof, this Declaration provides for the creation of the Sun City Peachtree Community Association, Inc., a Georgia not-for- profit corporation, to own, operate and maintain the Common Area, and to administer and enforce the provisions of the Governing Documents.

Declarant hereby declares that all of the Properties described in Exhibit A and any additional Properties subjected to this Declaration by a Supplemental Declaration (collectively "Sun City Peachtree") shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the land and title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties.

ARTICLE I
DEFINITIONS

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

1.1 Activity Card(s): Those certain cards which are issued by the Association in accordance with the terms and conditions set forth in **Section 2.2** and which confer upon the holder rights of access to and use of recreational facilities and other Common Areas within the Properties.

1.2 Age-Qualified Occupant: Any individual (i) 50 years of age or older who owns and occupies a Dwelling Unit and was the original purchaser of the Dwelling Unit from the Declarant; or (ii) 55 years of age or older who occupies a Dwelling Unit. The terms "occupy," occupies,"or "occupancy" shall mean staying overnight in a particular Dwelling Unit for at least ninety (90) days in any consecutive twelve (12) month period.

1.3 Annexable Property: All real property located within a distance of five (5) miles from any part of the boundary line of the real property described on Exhibit A hereto.

1.4 Area of Common Responsibility: The Common Area and such other areas, if any, for which the Association has or assumes responsibility for maintenance pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contract, or agreement.

1.5 Articles of Incorporation or Articles: The Articles of Incorporation of Sun City Peachtree Community Association, Inc., as filed with the Secretary of State of the State of Georgia, as amended from time to time.

1.6 Association: Sun City Peachtree Community Association, Inc. a Georgia not-for-profit corporation, its successors or assigns.

1.7 Base Assessment: Assessments levied on all Lots subject to assessment under **Article VIII** to fund Common Expenses for the general benefit of all Lots.

1.8 Benefitted Assessment: Assessments levied in accordance with **Section 8.8.**

1.9 Board of Directors or Board: The body responsible for administration of the Association, selected as provided in the By-Laws and serving the same role as a board of directors under a Georgia not-for-profit corporation.

1.10 Builder: Any Person which purchases one or more parcels of land within the Properties for subdivision, development, construction of homes and/or resale in the ordinary course of such Person's business other than for personal residential use.

1.11 By-Laws: The By-Laws of Sun City Peachtree Community Association, as amended from time to time.

1.12 Charges: The Base Assessment, Limited Common Area Assessment, Benefitted Assessments, any Special Assessment levied by the Association and/or any other charges or amounts which an Owner is required to pay or for which an Owner is liable under this Declaration or the By-Laws, including Specific Assessments imposed as provided under **Section 4.3(c)**.

1.13 Common Area: Any portions of the Properties which are described and designated as "Common Area" in Exhibit A hereto or on any recorded Plat, as Exhibit A or the Plats may be amended or supplemented from time to time, together with all improvements located above and below the ground and rights appurtenant thereto. "Common Area" shall also include all real and personal property, including easements and business, which are granted or conveyed to the Association as Common Area in accordance with this Declaration. The Common Area shall generally include community wide recreational facilities, open space, detention areas, wetlands and green areas. The Common Area shall not include the Golf Course but shall include any easements or rights-of-way over the Golf Course that are reserved for or granted to or for the benefit of the Association and/or its Members. The Common Area shall not include any streets, streetlights, water mains, the Sanitary Sewer System or any other or sanitary sewers or other improvements which have been dedicated to a municipality or governmental agency. However, Common Area shall not include or be part of the common elements of a condominium. The Declarant may from time to time make additional real estate subject to this Declaration as Common Area pursuant to **Article VII**.

1.14 Common Expenses: The expenses of administration, operation, maintenance, repair, replacement, landscaping and snow removal of the Common Area (other than Limited Common Area); the cost of insurance, water, sewer, electricity, telephone, gas and other necessary utility expenses for the Common Area (other than Limited Common Area); the cost of general and special real estate taxes and assessments levied or assessed against any portion of the Common Area (other than Limited Common Area) owned by the Association; the cost of maintenance of the landscaping of the rights-of-way and medians of streets, roads or highways, within or adjoining the Properites (including, without limitation, Jordan Hill Road) ; any expenses designated as Common Expenses by this Declaration; if not specifically charged to the Owners, the cost of waste removal and scavenger services to the Properties; and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners (including, without limitation, costs incurred for management, administrative, legal or other professional services). Common Expenses shall not include Limited Common Area Expenses.

1.15 Community-Wide Standard: The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standards may be defined in the Design Guidelines or rules and regulations of the Board. Such standards may be specifically determined, and modified, by the Declarant at any time during the Declarant Control Period and thereafter by the Board and/or the Modifications Committee.

1.16 County: Spalding County, Georgia, and any municipality or body politic that may be lawfully granted or lawfully obtains governmental authority or jurisdiction over the Properties or any part thereof in the future.

1.17 Covenant to Share Costs: Any declaration or agreement executed by Declarant and recorded in the Public Records, which grants rights or creates easements for the benefit of the Association and the present and future owners of the real estate subject thereto and which obligates the Association and such owners to share the costs related to or incurred in connection with real estate described therein.

1.18 Declarant: Pulte Home Corporation, doing business through and under its "Del Webb" brand, a Michigan corporation, or one of its successors or assigns who shall become Declarant in accordance with the provisions of Paragraph 3.5 of this Declaration.

1.19 Declarant Control Period: The period commencing upon the recording of this Declaration and ending upon the first to occur of:

(a) The end of the Development Period;

(b) The expiration of twenty (20) years from the date of recording hereof; or

(c) The date designated in a written notice recorded by the Declarant in the Public Records as being the end of the Declarant Control Period.

1.20 Design Guidelines: Any written design and construction guidelines and application and review procedures applicable to the Properties promulgated and administered pursuant to **Article IX**, as modified from time to time.

1.21 Development Period: The period of time commencing upon the recording of this Declaration and ending at such time as Declarant no longer holds or controls title to any portion of the Annexable Property or the real estate which is described in Exhibit A hereto.

1.22 Dwelling Unit: An individual building, or a portion of a building, designed and intended for independent ownership, occupancy, and use as a residence for one or more Persons.

1.23 "Golf Course" shall mean the golf course and related facilities (including, without limitation, clubhouse, golf driving range, putting green, golf cart paths, pro shop, locker rooms, restaurant and other food and beverage facilities, pavilions, maintenance and storage buildings for golf carts and other various mechanical equipment), which is the only use which may be made of the Golf Course Property. The Golf Course shall not be part of the Properties (except as provided in Section 1.12 above) and nothing herein shall be deemed to impose a covenant, restriction or easement on the Golf Course.

1.24 "Golf Course Buffer" shall mean all portions of all Lots and all Common Area which are located within twenty (20) feet of the boundary line of the Golf Course Property.

1.25 "Golf Course Deed" shall mean the deed of conveyance by which the Golf Course Property is conveyed to the Golf Course Owner.

1.26 "Golf Course Owner" shall mean the Person who holds record title to the Golf Course Property. In the event that the Golf Course Property shall at any time be owned by more than one Person, then the term "Golf Course Owner" shall mean all of said Persons, collectively and jointly and severally.

1.27 "Golf Course Property" shall mean the real property which will be conveyed to the Golf Course Owner by the Golf Course Deed.

1.28 "Golf Lot" shall mean any Lot, any part of which is contiguous to the Golf Course Property.

1.29 "Golfer" shall mean an individual who is playing golf on the Golf Course pursuant to the exercise of a right or a license to do so.

1.30 Governing Documents: A collective term including the Declaration, the By-Laws, the Articles, the Design Guidelines, and rules or regulations adopted by the Board, as any such documents may be amended from time to time.

1.31 Home Owner: An Owner other than the Declarant or a Builder.

1.32 Improvement: Any structure of any kind or nature.

1.33 Limited Common Area: A portion of the Common Area which is designated for the exclusive use of the Owners and/or Residents of one or more Dwelling Units as designated in this Declaration, in Exhibit A hereto or any Plat, as Exhibit A or the Plats may be amended from time to time, or in a Supplement hereto. By way of example, a Limited Common Area may be a fence, retaining wall, landscaped buffer area or other real estate or improvements thereto which serve or benefit one or more, but less than all Dwelling Units.

1.34 Limited Common Area Assessment: Assessments levied on the Lots which have the right to use or benefit from a particular Limited Common Area to pay the associated Limited Common Area Expenses and to accumulate reserves for such expenses as more fully described in **Article VIII**.

1.35 Limited Common Area Expenses: With respect to a particular Limited Common Area, the expenses of administration (including management, legal and other professional services), maintenance, operation, repair, and replacement thereof; the cost of insurance, real estate taxes and other assessments, if any, water, waste removal, sanitary sewer, electricity, telephone and other necessary utility expenses for the Limited Common Area; the cost of and the expenses incurred for the maintenance, repair and replacement of personal property used by the Association only in connection with the maintenance or operation of the Limited Common Area; any expense designated as a Limited Common Area Expense in this Declaration or any Exhibit hereto, as supplemented or amended from time to time or any Supplement hereto; and any expenses incurred by the Association which, pursuant to generally accepted accounting

principles, can reasonably be allocated to the Limited Common Area. Limited Common Area Expenses shall not be deemed to be, and shall not be deemed to include, Common Expenses. In the event that certain expenses are incurred by the Association in connection with the operation of a particular Limited Common Area and another Limited Common Area and/or the Common Area (other than Limited Common Area), the allocation of expenses between the various Limited Common Area Expenses and the Common Expenses shall be made by the Board based on generally accepted accounting principles, and any allocation so made shall be final and binding.

1.36 Local Area Association: As defined in **Section 16.1.**

1.37 Local Area Declaration: As defined in **Section 16.1.**

1.38 Lot: A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed, and upon which a Dwelling Unit is constructed or is intended to be constructed. The term shall include the land, if any, which is part of the Lot as well as any Improvements, including any Dwelling Unit, on the Lot. In the case of a building containing multiple Dwelling Units, each Dwelling Unit shall be deemed to be a separate Lot.

1.39 Master Plan: Declarant's conceptual land use plan for the development of Sun City Peachtree, as it may be amended from time to time, which plan shall include the real estate described in Exhibit A and may include a portion or all of the Annexable Property and other real estate. **DECLARANT EXPRESSLY RESERVES THE RIGHT TO MODIFY, AMEND AND REVISE THE MASTER PLAN AT ANY TIME DURING THE DEVELOPMENT PERIOD AS IT, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DECLARANT MAY AMEND AND REVISE THE MASTER PLAN AT ANY POINT IN TIME TO INCLUDE MULTI-STORY CONDOMINIUM BUILDINGS.** Inclusion of real estate on the Master Plan shall not, under any circumstances, obligate Declarant to subject such real estate to this Declaration as part of the Properties, nor shall the exclusion of real estate from the Master Plan bar its later inclusion therein.

1.40 Member: A Person entitled to membership in the Association pursuant to **Section 3.2.**

1.41 Modifications Committee or MC: The committee established by the Board pursuant to **Section 9.2(b)** to review applications for modifications to Dwelling Units.

1.42 Mortgage: A first mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot. A "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

1.43 Neighborhood: A portion of the Properties which is described and designated as a "Neighborhood" in Exhibit A hereto, or on a Plat as Exhibit A, or as the Plats may be amended or supplemented from time to time, or in a Supplement hereto. A Neighborhood may consist of Lots and a portion of the Common Area. The Declarant may make real estate which is added to

the Properties part of a Neighborhood at the time it is annexed as provided in **Article VII**, or thereafter as permitted herein.

1.44 Neighborhood Assessment: Assessments levied on the Lots located within a particular Neighborhood to pay the associated Neighborhood Expenses and to accumulate reserves for such expenses, as more fully provided in **Article VIII**.

1.45 Neighborhood Expenses: The expenses of administration (including professional services), maintenance, operation and replacement of a Neighborhood Facility (if any); the cost of insurance, real estate taxes and other real estate assessments, if any; water, waste removal, sewer, electricity, telephone, gas, or other necessary utility expenses for the Neighborhood Facility, the cost of and the expenses incurred for the maintenance and repair and replacement of personal property used by the Association in connection with the operation of the Neighborhood Facility or the provision of Neighborhood Wide Services to all Lots in the Neighborhood; the cost of furnishing Neighborhood Wide Services to all Lots in the Neighborhood; any expense designated as a Neighborhood Expense by this Declaration or any Exhibit hereto, as supplemented or amended from time to time, or any Supplement hereto; any expenses incurred by the Association which, pursuant to generally accepted accounting principles, can be reasonably allocated to the Neighborhood; and any other expenses lawfully incurred by the Association for the common benefit of the Owners of Lots in the Neighborhood. Neighborhood Expenses shall be determined on a Neighborhood by Neighborhood basis and no expenses incurred for any one (1) Neighborhood shall be deemed to be a Neighborhood Expense for any other Neighborhood. Neighborhood Expenses shall not be deemed to be, and shall not be deemed to include, Common Expenses or Limited Common Area Expenses. In the event that certain expenses are incurred by the Association in connection with the operation of a given Neighborhood Facility and another Neighborhood Facility and/or the Common Area, the allocation of expenses between the Common Expenses, the various Limited Common Area Expenses, and the various Neighborhood Expenses shall be made by the Board based on generally accepted accounting principles, and any allocations so made shall be final and binding.

1.46 Neighborhood Facility: A portion of the Properties which is part of a Neighborhood and which is described and designated as a "Neighborhood Facility" in Exhibit A hereto or on a Plat, as Exhibit A and the Plats may be amended or supplemented from time to time, together with all improvements thereon, rights appurtenant thereto, and all personal property used in connection with the operation thereof. By way of example, a Neighborhood Facility may be a swimming pool, tennis court, park area, or other recreational facility which is available for use primarily or exclusively by Residents of a Neighborhood and their guests, a security gate or similar structure which serves a Neighborhood or other facilities which serve or are used exclusively by Residents of Dwelling Units in the Neighborhood. A Neighborhood Facility may be on a separate subdivided lot or parcel or may be part of a Lot. A Neighborhood Facility shall not be deemed to be part of the Common Area, nor shall it be part of the Common Elements of a condominium.

1.47 Neighborhood Wide Services: Those services which are described and designated as "Neighborhood Wide Services" (a) in a Supplemental Declaration or (b) by action of the Board pursuant to a petition signed by Owners of at least two-thirds (2/3rds) of the Owners of

Dwelling Units in the Neighborhood. Neighborhood Wide Services shall be furnished to the Dwelling Units in a Specific Neighborhood by the Association as a Neighborhood Expense.

1.48 Owner: One (1) or more Persons, which may include the Declarant or a Builder, who hold the record title to a Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

1.49 Optional Services: As defined in **Section 5.4**.

1.50 Person: A natural person, corporation, partnership, limited liability company, trustee, or any other legal entity.

1.51 Plat: A plat of subdivision for a portion of the Properties which is recorded in the Public Records. **DECLARANT EXPRESSLY RESERVES THE RIGHT TO REVISE, MODIFY, RECONFIGURE OR WITHDRAW ANY RECORDED PLAT AT ANY TIME DURING THE DEVELOPMENT PERIOD AS IT, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE.**

1.52 Private Amenities: Real estate and any improvements and facilities thereon located adjacent to, surrounded by, or in the vicinity of the Properties, developed by the Declarant or an affiliate or designee of the Declarant, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis, use fee basis, or otherwise. Without limiting the foregoing, the Golf Course shall be a Private Amenity. A Private Amenity shall not be part of the Properties. However, a Private Amenity may be made part of the Properties pursuant to the provisions of Article VII, in which case it shall no longer be deemed to be a Private Amenity hereunder.

1.53 Properties: The real estate described on Exhibit A, as amended from time to time, including such additional real estate as is annexed to this Declaration and added to Exhibit A after the initial recording hereof by a Supplemental Declaration, as provided in **Article VII**.

1.54 Public Records: The Public Registry of Spalding County, Georgia.

1.55 Regulated Work: As defined in **Section 9.1**.

1.56 Resident or Qualified Resident: Any of the following Persons occupying a Dwelling Unit:

(a) any Age-Qualified Occupant;

(b) any Person 19 years of age or older occupying a Dwelling Unit with an Age-Qualified Occupant; and

(c) any Person 19 years of age or older who occupied a Dwelling Unit with an Age-Qualified Occupant and who continues, without interruption, to occupy the same Dwelling Unit after termination of the Age-Qualified Occupant's occupancy thereof.

The term "occupy" or "occupancy" shall have the same meaning as set forth in **Section 1.2**. An individual who occupies a Dwelling Unit but does not satisfy the criteria of (a), (b) or (c) above shall not be deemed to be a Resident and shall not be entitled to any rights or privileges granted to a Resident hereunder.

1.57 "Sanitary Sewer Service Provider" shall mean the Person who owns the Sanitary Sewer System at any given time.

1.58 "Sanitary Sewer System" shall have the meaning set forth in Paragraph 4.10 hereof.

1.59 Special Assessment: Assessments levied in accordance with **Section 8.7**.

1.60 Special Declarant Rights: As defined in **Article XIII**.

1.61 Special Services: As defined in **Section 5.3**.

1.62 Supplemental Declaration or Supplement: An amendment or addition to this Declaration filed in the Public Records pursuant to **Article VII** which subjects additional real estate to this Declaration as part of the Properties, identifies any Common Area and Lots within the additional real estate, amends Exhibit A to reflect the addition of such real estate and the characterization thereof and/or imposes or modifies, expressly or by reference, additional covenants, conditions, restrictions, easements or obligations on the real estate described in such instrument.

1.63 Voting Member: As defined in **Section 3.3**.

ARTICLE II
PROPERTY RIGHTS

2.1 Right to Use and Enjoy Common Area. Each Resident shall have the non-exclusive right and easement to use and enjoy the Common Area (except the Limited Common Area). Each Resident shall have the non-exclusive right and easement to use and enjoy any Limited Common Area assigned to his Lot, in common with the Owners of other Lots to which such Limited Common Area is assigned. Such rights and easements shall run with the land, shall be appurtenant to and pass with title to every Lot, and shall be subject to and governed by the following:

(a) This Declaration or any Supplement or amendment hereto, the By-Laws, and all Governing Documents;

(b) Any covenants, committments, provisions, restrictions or limitations contained in any deed conveying Common Area to the Association;

(c) Rules and regulations adopted as more fully provided in **Section 4.3**;

(d) The right of the Board to impose Specific Assessments and to suspend the rights, services and privileges of an Owner or Resident including, without limitation, the right to use recreational facilities pursuant to **Section 4.3**;

(e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area;

(f) The right of the Board to impose reasonable membership requirements and charge reasonable admission fees or other use fees for the use of any recreational facility situated upon the Common Area;

(g) The right of the Board to permit use of any Common Area by Persons other than Members upon payment of use fees estabished by the Board;

(h) The right of the Board to create, enter agreements with, and grant easements to tax-exempt organizations under **Section 4.13**;

(i) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for Association obligations;

(j) The right of the Association to rent, lease, or make available, with or without charge, for any purpose, any portion of any clubhouse and other recreational facilities within the Common Area to any Person approved by the Board for such uses as may be approved by the Board, including, without limitation, the leases referred to in **Section 2.6** and in **Article IV**;

(k) The requirement that access to and use of recreational facilities within the Properties shall be subject to the presentation of an Activity Card issued by the Association for such purpose; and

(l) The rights of the Declarant hereunder.

Any Common Area which is subsequently made part of the Properties shall be conveyed to the Association free of liens within ninety (90) days after it is made part of the Properties and subject to this Declaration.

2.2 Activity Cards.

(a) Issuance by the Board. One (1) Activity Card shall be allocated to each Qualified Resident of a Dwelling Unit, up to a maximum of two (2) Activity Cards per Dwelling Unit. No Activity Cards shall be allocated to any Dwelling Unit which is not occupied by a Qualified Resident. The Board shall determine entitlement to Activity Cards on an annual basis. Activity Cards shall be renewed annually without charge, provided the Dwelling Unit continues to be occupied by a Qualified Resident and all applicable assessments and other charges pertaining to the Dwelling Unit have been paid. The Board may establish policies, limits, and

charges with regard to the issuance of additional or duplicate cards and guest privilege cards. The Board may issue Activity Cards to persons who have signed binding contracts to purchase a Dwelling Unit or a Lot, subject to such policies as the Board may determine from time to time.

(b) Assignment of Rights. The right to an Activity Card is based upon occupancy of a Dwelling Unit. Any Owner who leases or otherwise transfers occupancy of his or her Dwelling Unit shall be deemed to have assigned his or her rights to an Activity Card to the Qualified Residents of such Dwelling Unit. Any Owner who leases or otherwise transfers the right to occupy his or her Dwelling Unit shall provide the Association with immediate written notice thereof and shall surrender to the Association his or her previously issued Activity Card. Activity Cards shall be surrendered by any holder who ceases to occupy a Dwelling Unit, or at any time upon written notification from the Association that the holder no longer is entitled to hold an Activity Card.

(c) Vacation Getaways. Each Vacation Getaway, as described in **Section 13.7**, located within the Properties shall be allocated two (2) Activity Cards for use by the temporary occupants of the Vacation Getaway. Vacation Getaways located adjacent to the Properties may be issued Activity Cards based on the arrangements set forth in the contract or Covenant to Share Costs between the Association and the owner of such Vacation Getaways. Additional Activity Cards shall be issued to the Declarant upon request with payment of the then current charge for additional Activity Cards. In the event that no such charge is in effect at the time of such request, the charge for additional Activity Cards for Vacation Getaways shall be determined in the reasonable discretion of the Declarant.

(d) Issuance to the Declarant. During the Development Period, the Association shall provide the Declarant, free of charge, with as many Activity Cards as the Declarant, in its sole discretion, deems necessary for the purpose of marketing the Properties or the Annexable Property or for use by its employees. The Declarant may transfer the Activity Cards to prospective purchasers of Dwelling Units or Lots subject to such terms and conditions as it, in its sole discretion, may determine. Activity Cards provided to the Declarant shall entitle the bearer to use all Common Area subject to the payment of admission fees or other use fees charged to Qualified Residents holding Activity Cards.

2.3 No Partition. Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of the whole or any part thereof. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real estate which may or may not be subject to this Declaration.

2.4 Condemnation. In the case of a taking or condemnation by competent authority of any part of the Common Area, the proceeds awarded in such condemnation shall be paid first to satisfy any indebtedness secured by a mortgage or other lien encumbering such portion of the Common Area and the balance to the Association. The proceeds, if any, paid to the Association, together with any reserve being held for such part of the Common Area shall be used first to restore or replace any improvements taken or condemned, and the balance, if any, shall, in the discretion of the Board, either (i) be distributed to the Owners who have the right to use such

Common Area and their respective Mortgagees, as their interests may appear, in equal shares, or (ii) be used for the mutual benefit of such Owners, as determined by the Board in its reasonable discretion; provided, that, during the Development Period, any such action shall be consented to by the Declarant.

2.5 Age Restriction. Sun City Peachtree is intended to provide housing primarily for persons 55 years of age or older, subject to the rights reserved to Declarant in **Section 13.10**. The Properties shall be operated as an age restricted community in compliance with all applicable state and federal laws. No person under 19 years of age shall stay overnight in any Dwelling Unit for more than ninety (90) days in any consecutive twelve (12) month period. Subject to **Section 13.10**, each Dwelling Unit, if occupied, shall be occupied by at least one (1) individual 55 years of age or older; provided, however, that once a Dwelling Unit is occupied by an Age-Qualified Occupant, other Qualified Residents of that Dwelling Unit may continue to occupy the Dwelling Unit, regardless of the termination of the Age-Qualified Occupant's occupancy. Notwithstanding the above, at all times, at least eighty percent (80%) of the Dwelling Units within the Properties shall be occupied by at least one (1) individual 55 years of age or older. The Board shall establish policies and procedures from time to time as necessary to monitor and maintain its status as an age restricted community under state or federal law. The Association shall provide, or contract for the provision of those facilities and services designed to meet the physical and social needs of older persons as may be required under such laws. The provisions of this Section may be enforced by the Association administratively under **Section 4.3** and/or by an action in law or in equity, including, without limitation, an injunction requiring specific performance hereunder.

2.6 Easements, Leases, Licenses and Concessions and Rights: The Board shall have the right and power from time to time (a) to lease or grant easements, licenses, concessions or other rights with regard to any portions or all of the Common Area or Limited Common Area for such uses and purposes as the Board deems to be in the best interests of the Owners including, without limitation, the right to grant easements relating to installation and operation of utilities, communication systems, satellite or cable television systems, and similar and related purposes and/or (b) with the agreement of the beneficiary or grantee of the easement, and any Owner whose Lot is benefitted thereby, cancel, alter or modify any easement which affects any Common Area, Limited Common Area, as the Board in its discretion shall determine; provided, that, any action by the Board taken pursuant to this sentence which would affect Limited Common Area must be approved by the Owners of a majority of the Lots which have the right to use the Limited Common Area. Any and all proceeds from leases, easements, licenses, concessions or other rights received by the Association with respect to the Common Area shall be used to pay the Common Expenses or Limited Common Area Expenses, as applicable. Each Person, by acceptance of a deed, mortgage, trust deed, other evidence of obligation, or other instrument relating to a Lot, shall be deemed to grant a power coupled with an interest to the Board, as attorney-in-fact, to exercise the powers as provided for in this Section. Any instrument executed pursuant to the power granted herein shall be executed by the President and attested to by the Secretary of the Association (or other appropriate officer) and duly recorded in the Public Records.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

3.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility; the primary entity responsible for compliance with and enforcement of the Governing Documents; and, to the extent provided for in **Article IX**, shall be responsible for exercising architectural control and for administering, monitoring compliance with, and enforcing all architectural standards, including any Design Guidelines. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Georgia.

3.2 Membership. Every Owner shall be a "Member" of the Association and shall hold one (1) membership for each Lot owned. If a Lot is owned by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation, such reasonable fees as may be established in **Section 2.1**, and the restrictions on voting set forth in **Section 3.3** and in the By-Laws. All such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, manager or trustee, or by any other individual having apparent authority or designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. The Declarant shall be a member of the Association during the Development Period.

3.3 Voting.

(a) **DURING THE DECLARANT CONTROL PERIOD, ALL OF THE VOTING RIGHTS OF THE OWNERS AT ANY MEETING OF THE MEMBERS OF THE ASSOCIATION OR OTHERWISE EXERCISED OR CAST AS BY LAW ALLOWED SHALL BE VESTED EXCLUSIVELY IN THE DECLARANT, AND OWNERS OTHER THAN THE DECLARANT SHALL HAVE NO VOTING RIGHTS.**

(b) **AFTER THE END OF THE DECLARANT CONTROL PERIOD,** all of the voting rights at any meeting of the Members of the Association or otherwise exercised or cast as by law allowed shall be vested in the Voting Members and each Voting Member shall have one (1) vote for each Lot which the Voting Member represents. One (1) individual shall be designated by each Owner to be the "Voting Member" with respect to each Lot owned by the Owner. If no designation is made and more than one (1) person seeks to be the Voting Member for a Lot, the Board may either recognize one (1) individual as the Voting Member or suspend the vote for the Lot (which shall still be counted for purposes of determining whether a quorum is present) until the issue has been resolved. Any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the By-Laws) upon an affirmative vote of a majority of the votes represented at the meeting by the Voting Members present at such meeting, except as otherwise provided herein or in the By-Laws. Voting Members may vote directly or by proxy as provided in the By-Laws. The Board shall determine from time to time whether votes shall be cast in person, by mail, or by other means permitted by law.

(c) Certain Special Declarant Rights, including the right to approve, or withhold approval of, certain actions proposed under this Declaration, the By-Laws and the

Articles during the Development Period and the right and power, during the Declarant Control Period, to appoint all members of the Board are specified in the relevant sections of this Declaration, the By-Laws and the Articles. To the extent those rights conflict or are inconsistent with any provision of this section, those rights shall control.

3.4 Attendance at Board Meetings by Owners. Members may attend meetings of the Board to the extent permitted by the Board in its discretion. Also, the Board shall hold informational meetings from time to time, but not less frequently than once each year during the Declarant Control Period, to which all Members shall be invited and at which the Board shall report to the Members on what the Board has worked on and accomplished since the preceding meeting and shall open the meeting for questions and comments from the Members.

3.5 Status of Declarant. The Person who shall have the status of the Declarant shall be the Person who holds fee title to all or a portion of the Properties and/or the Annexable Property and who has been designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant.

At all times only one Person shall have the status of the Declarant. In no event shall there be two or more Declarants at any one time.

In order to have the status of the Declarant, a Person must hold fee title to all or a portion of the Properties or the Annexable Property. In no event shall a Person who does not hold fee title to any portion of either the Properties or the Annexable Property have the status of the Declarant.

On the date of this Declaration Pulte Home Corporation is the Declarant. Pulte Home Corporation shall remain the Declarant until there shall be Recorded an instrument executed by Pulte Home Corporation designating as the successor Declarant a Person otherwise eligible to be the Declarant under the foregoing provisions of this Paragraph 3.5.

ARTICLE IV
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION, VARIOUS DISCLOSURES AND DISCLAIMERS

4.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, furnishings, equipment, and other personal property of the Association used in connection with the Common Area), and shall keep the Common Area in good, clean, attractive, and sanitary condition, order, and repair, pursuant to this Declaration and the By-Laws and consistent with the Community-Wide Standard. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under this Declaration.

Without limiting the generality of the foregoing, the Association shall have the power and authority to enter into one or more lease agreements for the leasing by the Association of certain recreational and community facilities (including, without limitation, the main club facility, including the swimming pool and tennis courts) from the then owners thereof. Any such lease

agreement shall provide for the use of such facilities by the Association until such time as said facilities may be conveyed to the Association as Common Area. It shall be the duty of the Association to carry out and perform all of the obligations of the lessee under any such lease agreement during the term thereof.

In addition, the Association may maintain other property which it does not own, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The non Common Area property that the Association may maintain may include, and is not limited to, public rights-of-way within or abutting the Property, the landscaping of such public rights-of-way, and ponds, streams, and/or wetlands located within the Property which serve as part of the Community's stormwater drainage system, including associated improvements and equipment, and property dedicated to the public.

4.2 Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, personal property and leasehold and other property interests to be part of Common Area, regardless of whether such real estate is specifically or formally designated as Common Area. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions of record or as set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

4.3 Rulemaking and Administrative Enforcement of Governing Documents.

(a) Rulemaking. The Association, through the Board, may make, modify, amend, cancel, limit, create exceptions to and enforce reasonable rules and regulations governing the use of the Properties, consistent with the rights and duties established by the Governing Documents, including, without limitation, rules limiting the use of the Common Area by visitors, including visiting children. Such rules shall be binding upon all Owners, Residents, guests, invitees, and licensees, if any, until and unless overruled, canceled, or modified in a regular or special meeting of the Association by the vote of a majority of the total vote in the Association. The Board shall have no obligation to call such a meeting except as provided for in the Bylaws. Rules established shall be deemed part of the Governing Documents.

(b) Enforcement. The Board, or the Covenants Committee, if any, established pursuant to the By-Laws, may impose sanctions for violations of the Governing Documents (including failure to pay charges due and owing to the Association), after notice and a hearing in accordance with the procedures set forth in Section 3.24 of the By-Laws. The Board shall establish a schedule and/or a range of penalties for violations of the Governing Documents. Any range or schedule established by the Board may be changed, modified or adjusted as the Board, in its sole discretion, deems appropriate; provided, however, that changes, modification and adjustments may be applied or imposed prospectively only. Such sanctions may include, without limitation:

(i) suspending an Owner's right to vote;

(ii) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress, egress or access to or from a Lot;

(iii) suspending any rights, services, or privileges provided by the Association to an Owner or the Owner's Lot; and

(iv) levying Benefitted Assessments to cover costs incurred in bringing a Lot into compliance in accordance with **Section 8.8(b)**.

(c) In addition to the foregoing, the Board of Directors shall also have the authority to levy specific assessments ("Specific Assessments") against any Member of the Association who shall fail to comply with or abide by any provision or restriction of this Declaration or the Governing Documents, or any rule or regulation adopted by the Board of Directors of the Association regarding the use, occupancy or maintenance of the Lots and, or the use of the Common Area, pursuant to the exercise of the power and authority granted to the Board of Directors in this Declaration, or the Articles or the Bylaws, to adopt such rules and regulations. Any Specific Assessment levied pursuant hereto shall be levied specifically against the Member who, or whose Lot, shall not be in compliance with such provision or restriction, and against all Lot(s) owned by such Member, and such Specific Assessment shall be collected in the same manner as Benefited Assessments. Prior to assessing any Specific Assessments in accordance herewith, the Board of Directors shall deliver written notice to the noncompliant Member of the specific nature of the violation and the action necessary by the Member to cure the violation. Any Member in receipt of such notice shall have ten (10) days thereafter or such longer time as the Board of Directors shall determine in its sole discretion to cure the specified violation. After the expiration of the cure period described above, the Member shall incur a Specific Assessment for each day that the violation has not been cured by the action described in the notice from the Board of Directors. In no event, however, shall the amount of each individual Specific Assessment total more than four percent (4%) of the amount of the Annual Assessments then in effect for each day that the violation shall remain uncured. Notwithstanding the foregoing per day cap, there is no cap on the total amount of Specific Assessments that may be imposed against a Member and such Member's Lot(s).

The above rights and remedies are cumulative and supplement all other rights of enforcement under applicable law. In addition, and by way of illustration and not limitation, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations in accordance with any applicable ordinance or requiring immediate abatement of violating activity) or by suit at law or in equity to enjoin any violation or to recover monetary damages, or both, without the necessity of compliance with the procedures set forth in the By-Laws. In any action or proceeding to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation,

attorneys fees and court costs, reasonably incurred in connection with or in the course of such action.

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iii) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce applicable state and local laws and ordinances and governmental bodies may enforce their respective laws and ordinances within the Properties for the benefit of the Association and its Members.

4.4 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental, Educational, and Religious Interests. During the Development Period, the Declarant may designate sites within the Properties, including portions of the Common Area, for government, education or religious activities and interests, including without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks and other public facilities. In the event of such a designation, the Association shall take whatever action is required with respect to such site to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

4.6 Indemnification. The Association shall indemnify every officer, director, and committee member and the Association's managing agent and its employees and agents against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which it, he or she may be a party by reason of being or having

been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and/or Georgia law.

The officers, directors, committee members and managing agent shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association. The Association shall indemnify and hold each such officer, director, committee member and managing agent harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, committee member and managing agent may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is available at a reasonable cost. Decisions whether to institute litigation are no different from other decisions directors make. There is no independent legal obligation to bring a civil action against another party, and no provision of the Governing Documents shall be construed to impose a duty upon the Board to sue under any circumstances.

4.7 Dedication of Common Area. The Association may dedicate portions of the Common Area to Spalding County, Georgia, or to any other local, state, or federal governmental or quasi-governmental entity.

4.8 Security. It is the goal of all Owners, including Declarant, to have a safe and healthy environment. However, no written or oral representations regarding the safe and secure nature of Sun City Peachtree shall be construed in whole or in part as guarantees thereof, it being recognized that circumstances which are beyond the control of the Declarant, the Association, or the managing agent may arise. The Association may maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be; provided, however, that the Association shall not be obligated to maintain or support such activities nor shall any action taken by the Association in this regard be deemed or construed to create or give rise to any duty or obligation beyond any that exists under the law independent of the Association's action.

The Association, the managing agent, or the Declarant shall not in any way be considered insurers or guarantors of security within the Properties. None of the foregoing shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, entry gate, patrol, alarm system or other security system or measures, including any mechanism or system for limiting or monitoring access to the Properties, can not be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended.

Each Owner acknowledges, understands and covenants to inform all Residents, tenants, guests, and invitees of the Owner's Dwelling Units that the Association, its Board of Directors and committees, the Declarant, and the managing agent are not insurers or guarantors of security within the Properties. Each Owner and all Residents, tenants,

guests, and invitees of the Owner's Dwelling Unit assume all risks for injury, loss or damage to persons, to Dwelling Units, and to the contents of Dwelling Units and further acknowledge that the Association, its Board and committees, the managing agent, and the Declarant have made no representations or warranties, nor has any Owner, or any Resident, tenant, guest, or invitee of any Dwelling Unit relied upon any representations or warranties, expressed or implied, relative to any entry gate, patrolling of the Properties, any fire protection system, burglar alarm system, or other security systems recommended or installed or any security measures undertaken within the Properties.

4.9 Video, Data and Communication Service Agreements.

(a) Declarant may establish on the Association's behalf, or the Association may establish, and the Association may maintain a community intranet system. The Board shall have discretion and authority in determining and selecting an appropriate system, and may change, modify, or terminate the system from time to time.

(b) Provider of Broadband Service.

Declarant and the Association shall have authority to select the provider or providers of the components (including, but not limited to, hardware, software, programming, infrastructure, services, management, and administration) constituting the community broadband system. The Association shall have no obligation to utilize any particular provider or providers.

The Association may enter into contracts with providers for different components of the community broadband system and with other Persons for the maintenance, management, administration, upgrading, modification, and operation of the system. The terms of the applicable contract may obligate individual Owners or occupants to execute contracts or agreements directly with the Persons providing broadband components prior to gaining access to the system. Such contracts or agreements may contain terms and conditions relating to use and access to the community broadband system in addition to those contained in this Article.

(c) Governmental Regulation.

Any community broadband system and its providers, managers, and operators may be subject to federal, state, or municipal regulations, laws, and ordinances. Such regulations, laws, and ordinances may have a significant impact on certain aspects of the system including, but not limited to, the fees charged, the method of delivery, the rights of the system users, as well as the rights of the system providers or operators. These regulations and their impact are beyond the Association's control.

(d) Central Telecommunication, Receiving, and Distribution System.

Declarant reserves for itself, its affiliates, successors, and assignees, the exclusive and perpetual right and easement to operate within Sun City Peachtree, and to service the buildings and the structures within any Lot, a central telecommunication (including cable television and security monitoring) receiving and distribution system, including conduits, wires, amplifiers, towers, antennae, and other related apparatus and equipment (the "Community Systems") as Declarant, in its discretion, deems appropriate. Such exclusive and perpetual right

shall include, without limitation, Declarant's right to select and contract with companies licensed to provide telecommunications and cable television service in Sun City Peachtree, and to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Declarant may require that the Association enter into a bulk rate service agreement for the provision of Community Systems to all Lots as a Common Expense. If particular services or benefits are provided to particular Owners or Lots at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the costs as a Benefited Assessment.

(e) Disclaimer and Limitation of Liability.

The Association shall not be liable for any loss, damage or injury resulting from (a) any virus or contamination of any data, computer, or computer system arising from access to the Community Systems; (b) any delays, interruptions, or inconveniences in accessing or using any functions of the Community Systems, or inability to access or download information, software or other materials through the Community Systems; (c) the quality, validity, completeness of, or any inaccuracies, errors or omissions in, any information, software or other materials accessible through the Community Systems. The Association does not endorse and makes no representations or warranties regarding the quality, safety, suitability, or usefulness of any software or other materials accessible through the Community Systems. All users assume the entire risk associated with use of and access to the Community Systems and any information, software or other materials available through the Community Systems.

4.10 Sanitary Sewer Services. Sanitary sewer service shall be provided for the Dwelling Units by a privately owned sanitary sewer system that will be installed within the Community (the "Sanitary Sewer System"). All Dwelling Units shall be required to be connected to he Sanitary Sewer System. This requirement shall remain in effect even if alternative sanitary sewer services may become available to the Lots. The real property on which the component of the Sanitary Sewer System consisting of the sewage treatment plant and other related adjuncts and facilities shall be located is not part of the Community and is not subject to any of the liens, covenants or restrictions set forth in this Declaration.

The responsibility for the provision of the sanitary sewer services to the Dwelling Units will be that of the Sanitary Sewer Service Provider and not that of the Association. The Association shall have no responsibility to the owners or residents of the Dwelling Units in regard to the provision of such services, and shall have no liability to any Owner in the event of any interruption of the provision of such sewer services or on account of any damage that may be caused to any persons or property by any malfunction of the Sanitary Sewer System. Each Owner will be required to enter into an individual agreement with the Sanitary Sewer Provider for the provision of sanitary sewer services to each Dwelling Unit owned by such Owner, pursuant to such individual agreement, each Owner will be required to pay a monthly fee to the Sanitary Sewer Provider for such service. Said individual agreement will also require each Owner to abide by all rules and regulations regarding the use of the Sanitary Sewer System as are imposed by the Sanitary Sewer Provider from time to time. Notwithstanding the fact that

neither the Declarant nor the Association shall have any responsibility for the provision of sanitary sewer services by the Sanitary Sewer Provider (as set forth hereinabove), the Declarant does hereby grant to the Sanitary Sewer Provider the right to record and enforce a lien against any Lot in the event that the Owner of such Lot shall fail to pay to the Sanitary Sewer Provider any amounts due it for the provision of sanitary sewer services to any Dwelling Unit located in such Lot after such Owner's receipt of written notice of the past due amount. No amendment to this Section 4.10 or any other provision of this Declaration which is for the benefit of the Sanitary Sewer Provider or the Sanitary Sewer System may be made without the written consent of the Sanitary Sewer Provider.

4.11 Assumption of Risk. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to promote the health, safety and welfare of the Owners and Residents. Notwithstanding anything contained in the Governing Documents or any other document binding the Association, none of the Association, the Board, the managing agent, or the Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or Resident of any Dwelling Unit or any tenant, guest or invitee of any Owner or Resident or for any property of any such Persons. Each Owner and Resident of a Dwelling Unit and each tenant, guest and invitee of any Owner or Resident shall assume all risks associated with the use and enjoyment of the Properties, including all recreational facilities.

The Association, the Board, the managing agent, or the Declarant shall not be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence or malfunction of utility lines, facilities or equipment on, adjacent to, near, over, or on the Properties. Each Owner and Resident of a Dwelling Unit and each tenant, guest, and invitee of any Owner or Resident shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of utility lines, facilities or equipment and further acknowledges that the Association, the Board, the managing agent, and the Declarant have made no representations or warranties, nor has any Owner or Resident, or any tenant, guest, or invitee of any Owner or Resident relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines, facilities or equipment.

No provision of the Governing Documents shall be interpreted as creating any duty or obligation of the Association, the Board, the managing agent, or the Declarant to protect or further the health, safety or welfare of any individuals, even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her acceptance of title to his or her Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Properties (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands and causes of action against the Association, the managing agent, and the Declarant, their directors, officers, committee members, employees, agents, contractors, subcontractors, successors and assigns arising from or connected with any matter for which the liability has been disclaimed.

4.12 Change of Use of Common Area. During the Declarant Control Period, without the approval or consent of the Members, and thereafter, pursuant to action of the Members taken at a duly called meeting of the Members, the Board shall have the power and right to change the use and/or configuration of portions of the Common Area or Limited Common Area. Any such change shall be pursuant to Board resolution stating that: (a) the present use, configuration or service is no longer in the best interest of the Owners, (b) the new use or configuration is for the benefit of the Owners, (c) the new use or configuration is consistent with any deed restrictions and zoning regulations restricting or limiting the use of the Common Area and, (d) the new use or configuration is consistent with the then effective Master Plan.

Notwithstanding the above, if after the Declarant Control Period the Board adopts a resolution which states that the change in use or configuration will not have an adverse effect on the Association and the Owners, the Board may give notice of the change to all Owners. The notice shall give the Owners a right to submit written objections to the change within thirty (30) days of the notice. If ten percent (10%) or more of the Members who will be affected by the change submit written objections, the change shall not be effective unless and until it is approved by the Membership as provided in Section 3.3(b).

4.13 View Impairment. Neither the Declarant nor the Association guarantees or represents that any view from any Dwelling Unit or Lot will be preserved without impairment. Neither the Declarant nor the Association shall have the obligation to relocate, prune, or thin trees or other landscaping except as set forth in Article V. **Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.**

4.14 Relationship with Tax-Exempt Organizations. The Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to non-profit, tax-exempt organizations for the benefit of the Properties, the Association, its Members and Residents. The Association may contribute money, real or personal property or services to any such entity. Any such contribution shall be a Common Expense of the Association and included as a line item in the Association's annual budget.

For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

4.15 Recycling Programs. The Board may establish a recycling program and recycling center within the Properties, and in such event, all Residents shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program or center is designed to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation, and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.

4.16 Wildlife Control. Declarant and the Association reserve the right to undertake such measures as may be appropriate to control wildlife within the Properties including, but not limited to, the taking of deer, turkeys, beaver and large birds so long as such measures are

consistent with all applicable legal requirements. Without limiting the foregoing, Declarant or the Association may, in their discretion, establish regular control programs such as, for example, the use of dogs to prevent non-migratory geese and other species from nesting within and/or causing damage to the Properties or the Private Amenities or otherwise becoming a nuisance and may limit, control or prohibit the placement or distribution of food or other items consumed by or attractive to wildlife.

4.17 Sales Center. Declarant reserves all rights with respect to the sales center after Declarant no longer requires the sales center for sales and marketing purposes. Without limiting the foregoing, Declarant may sell the property to the Association or to a third party for any use permitted under applicable law.

4.18 Effluent. The Association shall have the authority to enter into an agreement or agreements with the Sanitary Sewer Service Provider pursuant to which the Sanitary Sewer Service Provider shall have the right to discharge "Effluent" (as that term is hereinbelow defined) on portions of the Common Areas identified in said agreement or agreements for the purpose of irrigating said portions of the Common Areas. As used in this Declaration, "Effluent" shall mean any water which has been treated through the Sanitary Sewer System and meets the minimum standards for reclaimed water used for irrigation of non-restricted access areas as defined and set forth in Land Application System Permit bearing LAS Permit No. GA 03-904 (as it may be amended, the "Permit") dated April 8, 2005, issued by the State of Georgia, Department of Natural Resources Environmental Protection Division to the Sanitary Sewer Service Provider.

ARTICLE V
MAINTENANCE

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

(a) all Common Area (including Limited Common Area); provided, however, that nothing herein shall mandate a particular method or level of maintenance and it is expressly understood that portions of the Common Area may be maintained to different standards or left "rustic" or "natural" (not maintained) as the Board in its sole discretion deems appropriate from time to time.

(b) all water service facilities included in the Common Area;

(c) all perimeter walls or fences constructed by the Declarant surrounding the Properties or which separate a Lot from the Common Area or the Golf Course, regardless of whether such wall or fence is located on the Common Area or on a Lot; provided that Owners shall be responsible for maintaining the interior surface of the perimeter wall or fence located on such Owner's Lot as provided in **Section 5.2**. A perimeter wall or fence shall not be a Party Wall as set forth in **Section 5.7**;

(d) if, and to the extent, required under applicable County ordinances, landscaping, street lights and signage within public rights-of-way abutting the Properties;

(e) landscaping and other flora within any public utility easements and scenic easements within the Common Area (subject to the terms of any easement agreement relating thereto);

(f) any additional property included within the Area of Common Responsibility as may be required under the terms of this Declaration, any Supplemental Declaration, any Plat, or any contract or agreement for maintenance thereof entered into by, or which is binding upon, the Association;

(g) any property or facility owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members and identified by written notice from the Declarant to the Association until the Declarant revokes such privilege by written notice to the Association; and

(h) mail boxes installed by Declarant, only if the Owner fails to maintain mailboxes in accordance with the Community-Wide Standard, and subject to a charge to the Owner pursuant to **Section 5.2**.

(i) freestanding retaining walls constructed by the Declarant located on Lots and within Easement Areas as specifically provided for in **Section 11.10**, a freestanding retaining wall located within an Easement Area shall not be a Party Wall as set forth in **Section 5.7**.

The Association shall also have the right and power, but not the obligation, to take such actions and adopt such rules as may be necessary for control, relocation and management of wildlife, snakes, rodents, and pests, within the Properties.

The Association may also maintain other property which it does not own, including, without limitation, rights-of-way and other property, dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by applicable law and any governmental entity directly responsible therefor.

Except as hereinafter provided in this Section, the costs of maintenance, repairs and replacement of (i) the Common Area and Areas of Common Responsibility shall be Common Expenses, and (ii) Limited Common Area shall be Limited Common Area Expenses which shall be paid by the Owners of Lots who have the right to use the Limited Common Area in equal shares for each Lot.

If during the Development Period the Association fails to properly perform its maintenance responsibilities hereunder, the Declarant may, upon not less than ten (10) days notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, the Association shall reimburse Declarant for all costs incurred.

5.2 Owner's Responsibility. Each Owner shall maintain his or her Lot and in a manner consistent with the Community-Wide Standard and all applicable buffer requirements and covenants, unless such maintenance responsibility is otherwise expressly assumed by or assigned to the Association hereunder or pursuant to a Supplemental Declaration or to a Local Area Association (as more fully provided for in Article XVI). Unless expressly designated as part of the Common Area, each Owner shall be responsible for maintaining the area located within the public right-of-way adjacent to his or her Lot and between the perimeter boundary of the Lot and the paved portion of the roadway located thereon. Maintenance of this area within the public right-of-way shall be consistent with the Community Wide Standard, as well as all requirements and ordinances of the County, if any.

In addition to any other enforcement rights, if an Owner fails to perform properly his or her maintenance responsibility, the Association shall have the right to come upon such Owner's Lot and perform such maintenance responsibilities and assess all costs incurred as a Benefitted Assessment in accordance with **Section 8.8**. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency or other situation where injury, harm or damage is imminent, which determination shall be made by the Board, acting in its sole discretion.

5.3 Special Services: To the extent provided for in a Supplemental Declaration or by action of the Board, from time to time, the Association may furnish "Special Services" to a Lot or a group or groups of Lots. By way of example and without limitation, a Special Service may include snow removal from driveways and/or walkways on a Lot, or grass cutting or maintenance of landscaping on a Lot. The cost of furnishing a Special Service shall be assessed to the benefitted owner as a Benefitted Assessment under **Section 8.8**; however, at least once during each year, each Owner shall be given the right to choose not to receive any Special Service which would otherwise be furnished to the Owner's Lot, in which case the Owner shall not be charged for the Special Service and the Owner shall be responsible for furnishing the Special Service to the Owner's Lot at the Owner's sole cost and expense. The Association may, by Board action and in its sole discretion, discontinue providing a Special Service in which case each Owner may be required to furnish the Special Service to the Lot at Owner's sole cost and expense. If the Association is required to furnish a Special Service to a Lot, but if a portion of the Lot with respect to which the Special Service is to be furnished is obstructed with temporary or permanent improvements, personal property or other obstructions which make it difficult or impractical for the Association's agent or contractor to furnish the Special Service, the Association shall not be required to furnish the Special Service and, in such case, the Owner shall be responsible for furnishing the Special Service to such portion of the Lot at the Owner's sole cost and expense, so that the appearance of such portion of the Lot is similar to that of those portions where the Special Services are furnished by the Association. Anything herein to the contrary notwithstanding, the Association shall not be obligated to furnish Special Services to condominium property or condominium units and nothing herein shall be deemed to constitute the delegation of any powers of a condominium association to the Association hereunder.

5.4 Neighborhood-Wide Services: To the extent allowed under **Section 1.38**, the Association may furnish "Neighborhood-Wide Services to any Neighborhood designated or identified as provided in **Section 1.33**. By way of example and without limitation, a

Neighborhood-Wide Service may include snow removal from driveways and/or walkways on all Lots in the designated Neighborhood, or grass cutting or maintenance of landscaping on all Lots in a designated Neighborhood. The cost of furnishing a Neighborhood-Wide Service shall be Neighborhood Expenses as defined in **Section 1.36** which shall be assessed and collected as provided in **Section 8.4** No assurance or guarantee is made that the Association will continue to provide Neighborhood-Wide Services. The Association may, by Board action and in its sole discretion, suspend, modify, or discontinue providing a Neighborhood-Wide Service in which case each Owner may be required to furnish the Neighborhood-Wide Service to the Lot at Owner's sole cost and expense. If the Association is furnishing a Neighborhood-Wide Service to a Dwelling Unit, but a portion of the Lot with respect to which the Neighborhood-Wide Service is to be furnished is obstructed with temporary or permanent improvements, personal property or other obstructions which make it difficult or impractical for the Association's agent or contractor to furnish the Neighborhood-Wide Service, the Association shall not furnish the Neighborhood-Wide Service and, in such case, the Owner shall be responsible for furnishing the Neighborhood-Wide Service to such portion of the Lot at the Owner's sole cost and expense, so that the appearance of such portion of the Lot is similar to that of those portions where the Neighborhood-Wide Services are furnished by the Association and for the ongoing payment of Neighborhood-Wide Assessments without reduction or adjustment. Anything herein to the contrary notwithstanding, the Association shall not be obligated to furnish Neighborhood-Wide Services to condominium property or condominium units and nothing herein shall be deemed to constitute the delegation of any powers of a condominium association to the Association hereunder.

5.5 Standard of Performance. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate to satisfy the Community-Wide Standard. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, as determined by the Board. Without limiting the foregoing, the Board may establish standards for maintenance of portions of the Properties which are higher than those generally required under the Community Wide Standard.

Notwithstanding anything to the contrary contained herein, neither the Association, any Owner, nor the managing agent shall be liable for property damage or personal injury occurring on, or arising out of, the condition of property which it does not own unless, and only to the extent that, it has been negligent in the performance of its maintenance responsibilities.

5.6 Alterations, Additions or Improvements. Alterations, additions or improvements to the Common Area may be made only pursuant to action of the Board. The cost of any such alterations, additions or improvements to Common Area (other than Limited Common Area) shall be charged to all Owners of in equal amounts for each Lot. Upon delivery of a written request for an alteration, addition or improvement to a particular Limited Common Area which is signed by Owners of two-thirds (2/3) of the Lots which have the right to use the Limited Common Area and which is also approved by the Board, the requested alteration, addition or improvement shall be made and the cost thereof shall be charged to the Owners of Lots who have the right to use the Limited Common Area in equal amounts for each lot or, alternatively, such Owners shall be permitted to make such alteration, addition or improvement at their own

cost. However, any proposed alteration, addition or improvement to Common Area or Limited Common Area which would result in a charge to a Lot of more than ten percent (10%) of the annual Base Assessment or Limited Common Area Assessment, as applicable, then payable by Owners of Lots who will be assessed to pay the cost of such alteration, addition or improvement, shall not be authorized unless such proposed alteration, addition or improvement and the cost thereof is approved by the affirmative vote of at least two-thirds (2/3) of the votes cast by Voting Members who represent the Lots which would be assessed to pay the cost of the proposed alteration, addition or improvement at a duly called meeting of the Association members. The cost of an alteration, addition or improvement made pursuant to this Section shall be paid either from reserves or by way of a special assessment, all as more fully provided in **Article VIII** hereof.

5.7 Party Walls.

(a) In General. Every wall, including the foundations therefor, which is built as a part of the original construction of a building and placed on the boundary line between separate Lots (other than condominium units) shall constitute and be a "Party Wall,"and the Owner of a lot immediately adjacent to a Party Wall shall have the obligation and be entitled to the rights and privileges of these covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls.

(b) Rights in Party Wall. Each Owner of a Dwelling Unit, which is adjacent to a Party Wall, shall have the right to use the Party Wall for support of the structure originally constructed thereon and all replacements thereof and shall have the right to keep, maintain, repair and replace therein all pipes, conduit, and ducts originally located therein and all replacements thereof.

(c) Damage to Party Wall:

(i) If any Party Wall is damaged or destroyed through the act or acts of any Owner or Resident of a Dwelling Unit which is adjacent to such Party Wall, or his or her agents, servants, tenants, guests, invitees, licensees, or members of his or her family, whether such act is willful, negligent or accidental, the Owner shall forthwith proceed to rebuild or repair the same to as good a condition as in which such Party Wall existed prior to such damage or destruction without costs therefor to the Owner of the other adjoining Dwelling Unit.

(ii) Any Party Wall damaged or destroyed by some act or event other than one caused by the Owner or Resident of a Dwelling Unit which is adjacent to such Party Wall, or his or her agents, servants, tenants, guests, invitees, licensees, or members of his or her family, shall be rebuilt or repaired by the Owners of the adjacent Dwelling Units to as good a condition as in which such Party Wall existed prior to such damage or destruction at joint and equal expense of such Owners, and as promptly as is reasonably possible.

(iii) In the event that any Owner shall fail, within a reasonable time after the occurrence of damage or destruction referred to in this Section, to perform the necessary repair or rebuilding, then the Board may cause such repairs or rebuilding to be performed in the manner as provided in this Section and the cost thereof shall be charged to such Owner as his personal obligation and shall be a continuing lien on the Owner'sLot.

(d) Change in Party Wall: Any Owner of a Lot who proposes to modify, rebuild, repair or make additions to his Dwelling Unit in any manner which requires the extension, alteration or modification of any Party Wall shall first obtain the written consent thereto, as to said Party Wall, of the Owner of the other adjacent Dwelling Unit and the Board, in addition to meeting any other requirements which may apply. In the event that a Party Wall is altered, regardless of whether all required consents have been obtained, any express or implied warranties made by the Declarant concerning the structural integrity of the Party Wall or any of the Dwelling Units adjacent to the Party Wall shall be null and void and the Owner who alters the Party Wall shall be responsible for any and all damage caused to any of the adjacent Dwelling Units or improvements thereto.

(e) Arbitration: In the event of a disagreement between Owners of Dwelling Units adjoining a Party Wall with respect to their respective rights or obligations as to such Party Wall, upon the written request of either of said Owners to the other the matter shall be submitted to the dispute resolution provisions of **Article XIV**.

ARTICLE VI
INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance.

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

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements within the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes; provided, however, that this coverage may include and provide for a deductible in a commercially reasonable amount as determined by the Board from time to time.

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while

acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least $2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

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

(iv) Directors' and officers' liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth (1/6) of the total annual assessments then in effect, plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of individuals serving without compensation; and

(vi) Such additional insurance as the Board, in its business judgment, determines advisable.

Premiums for all insurance specified above shall be Common Expenses and shall be included in the Base Assessment, except that premiums for property insurance relating to Limited Common Area may be Limited Common Area Expenses if reasonably separable and economically feasible. Further, premiums for all insurance specified above which is obtained or maintained by the Association in connection with any Neighborhood, Neighborhood Facility or Neighborhood Services shall be a Neighborhood Expense.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one (1) or more qualified individuals, at least one (1) of whom must be familiar with insurable replacement costs in the metropolitan Charlotte area. All Association policies shall provide for a certificate of insurance to be furnished, upon request, to each Member insured, to the Association and each Mortgagee.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of **Section 6.1(a)**. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Limited Common Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one (1) or more Owners or Residents, or their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible as a Benefitted Assessment against such Owner(s) and their Lots pursuant to **Article VIII**.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Georgia which satisfies the requirements of the Fannie Mae, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

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

(iii) not be brought into contribution with insurance purchased by Owners, Residents, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

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

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area or membership in the Association;

(vii) provide a waiver of subrogation under the policy against each Owner and each Resident;

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

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one (1) or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the directors, committee members, officers, employees, and the Association's manager, the Owners, Residents and their respective tenants, servants, agents, and guests;

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

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

(iv) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

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

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless (i) at least eighty percent (80%) of the total vote in the Association or, in the case of Limited Common Area, of at least eighty percent (80%) of the vote of Owners of Lots which have a right to use the Limited Common Area, and (ii) the Declarant, during the Development Period, decide within sixty (60) days after the loss not to repair or reconstruct. However, if either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such funds or information are available, not to exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

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

Any insurance proceeds remaining after paying the costs of repair or reconstruction and expenses in making and administering the claim, or after such settlement as is necessary and appropriate, shall be distributed among all Owners, if such proceeds are for Common Area, among all Owners who have the right to use the Limited Common Area, if such proceeds are for Limited Common Area in equal amounts for each Lot owned.

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

6.2 Owner's Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of his or her Dwelling Unit, less a reasonable deductible, unless (i) the Association is expressly required to maintain insurance for the Dwelling Units; (ii) the Association voluntarily carries such insurance, or (iii) a Local Area Association, as provided in **Article XVI**, is responsible for maintaining such insurance. If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Benefitted Assessment against the benefitted Lot and the Owner thereof pursuant to **Section 8.8**.

Each Owner further covenants and agrees that if the Owner is required to carry property insurance for his or her Dwelling Unit, in the event of damage to or destruction of his Dwelling Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with **Article IX**, regardless of whether the insurance proceeds are sufficient to pay the cost of such work. Alternatively, the Owner shall clear the Lot and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

ARTICLE VII
ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1 Annexation. During the Development Period, the Declarant may unilaterally subject to the provisions of this Declaration as part of the Properties all or any portion or portions of the Annexable Property. Any portion of the Annexable Property which is not made part of the Properties may be developed and used for any purposes not prohibited by law, including, without limitation, as a commercial development or as a residential development which is not part of Sun City Peachtree.

Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the Annexable Property and that such transfer is memorialized in a written instrument executed by Declarant and filed in the Public Records. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the Annexable Property, any Private Amenities or any other real estate in the vicinity of Sun City Peachtree owned by Declarant or an affiliate of the Declarant in any manner whatsoever.

Annexation shall be accomplished by filing in the Public Records a Supplemental Declaration describing the real estate being annexed and amending Exhibit A to reflect the annexation of such real estate. Such Supplemental Declaration shall not require the consent of the Members, but shall require the consent of any owner of such real estate other than Declarant. Any such annexation shall be effective upon the filing in the Public Records of such Supplemental Declaration unless otherwise provided therein. Each Lot subject to this Declaration, whether initially described on Exhibit A or annexed and added to Exhibit A pursuant to a Supplemental Declaration, shall have an equal, pro rata share of liability for Base

Assessments, Limited Common Area Assessments and Neighborhood Assessments levied with respect to the Lot.

Any Supplemental Declaration may contain covenants, conditions, restrictions and easements which apply only to the real estate being annexed and/or may create exceptions to, or otherwise modify, the terms of this Declaration as they may apply to the real estate being annexed in order to reflect the different or unique character and/or intended use of such real estate.

In addition to the foregoing, the then current owner of any parcels of land which have been subjected to conservation easements or restrictions in connection with the issuance of wetlands impact permits by the United States Army Corps of Engineers for the development of the Properties (said parcels being herein referred to as the ("Mitigation Parcels") may transfer any or all of the Mitigation Parcels to the Association, and the Association shall accept the same. The Association shall own and maintain the Mitigation Parcels as Common Areas; provided, however, the Association shall have the specific duty to cause all conservation easements and restrictions that may apply to the Mitigation Parcels to be complied with, so that all conditions of all governmental permits that are issued for the impacting of wetlands areas located on the Properties and/or the Annexable Property are complied with. To the extent that any of the easement rights in favor of the Association and its Members that are provided for in this Declaration are inconsistent with any such conservation easements or restrictions, such easement rights shall be curtailed to the extent necessary to eliminate such incompatibility or inconsistency.

7.2 Withdrawal of Restrictions. The Declarant reserves the unilateral right during the Development Period to amend this Declaration to withdraw any portion of the Properties from the coverage of this Declaration whether originally described on Exhibit A or added thereto by a Supplemental Declaration; provided, no property which includes a Dwelling Unit shall be withdrawn after the Dwelling Unit has been conveyed by Declarant to any Person other than an affiliate of the Declarant or a Builder. Such amendment shall not require the consent of any Person other than the Owner of the real estate to be withdrawn, if not the Declarant. If the real estate is Common Area, the Association shall consent to such withdrawal upon the request of the Declarant.

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

7.4 Post-Development Period Authority. After the Development Period, the Association may add and annex real estate to the Properties or withdraw and transfer real estate from the Properties pursuant to action approved by a vote of a majority of the votes represented by Voting Members present at a duly called annual or special meeting of the Members.

ARTICLE VIII
ASSESSMENTS

8.1 Creation of Assessments. The Association may levy assessments against each Lot for Association expenses as the Board may specifically authorize from time to time. There shall be six (6) types of assessments: (a) Base Assessments to fund Common Expenses for the general benefit of all Lots; (b) Neighborhood Assessments; (c) Limited Common Area Assessments for Limited Common Area Expenses; (d) Special Assessments; (e) Benefitted Assessments; and (f) Specific Assessments. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments. These assessments shall be in addition to and distinct from any assessments levied by a Local Area Association.

The assessments levied by the Association pursuant to the authority granted in this **Article VIII**, shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and other residents of the Properties to the fullest extent authority or responsibility is granted to the Association hereunder and to discharge all rights, privileges, and duties assigned or allowed to the Association hereunder, and for the payment of such costs and expenses as the Board of Directors shall deem it in the best interests of the Association to pay. Without limiting the generality of the foregoing, assessments may be used for the leasing, acquisition, improvement, maintenance, and operation of the Properties and the provision of services and facilities devoted to this purpose and related to the use and enjoyment of the Properties, including, without limitation, as specified in **Articles II, IV** and **V**; the administration of architectural standards and review, including, without limitation, as specified in **Article IX**; the administration and enforcement of the Governing Documents as defined in **Section 1.22**; the administration and exercise of privileges, licenses, and easements granted to or reserved by the Association, including, without limitation, as provided in **Article XI**; payment of taxes and governmental assessments on the Common Area; payment of insurance premiums for the insurance policies maintained by the Association in accordance with the Governing Documents; payment of sums due in connection with street lights or other utilities serving the Properties for which the Association has responsibility hereunder; payment of management fees to a property manager; the employment of attorneys, architects, accountants, and other professionals to represent or assist the Association as deemed necessary or appropriate by the Board; the cost of utilities and fuel used in operating facilities in the Common Area; the maintenance and upkeep of all streets and/or roadways in the Property until such time as responsibility for their maintenance is assumed by the County or other governmental authority; and for the accumulation of reserves to carry out the purposes and duties of the Association, the Board, or the Modifications Committee as provided for in the Governing Documents.

Assessments shall be paid in such manner and by such dates as the Board may establish. Unless the Board otherwise provides, the Base Assessment, and any Limited Common Area Assessment for a Lot shall be due and payable in advance on the first day of the Association's fiscal year; provided, that, upon the first conveyance of a Lot to a purchaser for value, the pro rata portion of such assessments for the balance of the fiscal year shall be due and payable upon conveyance of the Lot. If any Owner is delinquent in paying any assessments or other charges

levied on his or her Lot, the Board may accelerate and require any unpaid installments of all outstanding assessments to be paid in full immediately.

The Association shall, upon request by an Owner, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid and any delinquent amount. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

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

8.2 Declarant's Obligation for Assessments. During the Declarant Control Period, Declarant may annually elect either to pay assessments on all of its Lots that remain unsold throughout the entire fiscal year or to pay the shortage for such fiscal year. For purposes hereof, the "shortage" shall be the difference between:

(a) the amount of all income and revenue of any kind received by the Association, including but not limited to, assessments collected on all other lots, use fees, advances made by Declarant, and income from all other sources; and

(b) the amount of all actual expenditures incurred by the Association during the fiscal year, including any reserve contributions for such year, but excluding all non-cash expenses such as depreciation or amortization, all expenditures and reserve contributions for making additional capital improvements or purchasing additional capital assets, and all expenditures made from reserve funds.

Calculation of the shortage shall be performed on a cash basis of accounting. Unless the Declarant otherwise notifies the Board in writing at least sixty (60) days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. If the Declarant elects, or is deemed to elect, to pay the shortage for a particular fiscal year and there is no shortage for such fiscal year, then the Declarant shall not be obligated to any amounts to the Association under this Section with respect to such fiscal year.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses or Limited Common Area Expenses. The payment of assessments or the shortage may be reduced or abated by the agreed value of any such services or materials provided in accordance with any such contract or agreement with the Association.

8.3 Computation of Base Assessment. The Board shall prepare a budget covering the Common Expenses estimated to be incurred during the year to which the proposed budget applies and may make amendments thereto from time to time. The annual budget, as well as any amendment to the budget for a particular year, shall be prepared and available to members not less than sixty (60) days before the date on which it is to take effect. Failure to meet this sixty (60) day requirement for budget preparation shall not invalidate any budget or amendment provided, however, that no budget or amendment shall be effective or used as a basis for an annual or amended levy of assessments until sixty (60) days after it is prepared and available to Members. The budget shall include a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in **Section 8.6**, but shall not include expenses incurred during the Declarant Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs.

The Base Assessment shall be levied equally against all Lots subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including contributions to reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to assessment under **Section 8.12** on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year.

During the Declarant Control Period, the budget must only be approved by the Declarant. Notice of proposed assessments or any amendments thereto shall be posted in a prominent place within the Properties. In addition to the requirement that notice be posted, the Board may, in its discretion, provide additional notice to members such as including notice in the Association's newsletter, if any.

After the Declarant Control Period, a budget and a proposed assessment may be disapproved at a meeting of the Members upon the vote of Voting Members representing at least two thirds (2/3) of the total Association vote and, if during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering the budget and proposed assessment except on petition of the Voting Members as provided for special meetings in **Section 2.4** of the By-Laws, which petition must be presented to the Board within thirty (30) days after notice of the proposed assessments. If the proposed budget is disapproved or the Board fails for any reason to establish the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue until a new budget is prepared as provided herein.

The Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of amounts (in addition to any amounts paid by Declarant under **Section 8.2**), which may be either a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such payments shall be disclosed as a line item in the Common Expense budget. The payment of such amounts in any

year shall not obligate the Declarant to continue such payments in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

8.4 Computation of Neighborhood Assessments. At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that (a) the Governing Documents specifically authorize the Board to assess certain costs as a Neighborhood Expense, or (b) the Association expects to incur expenses to provide additional services for a Neighborhood. Such budget shall include any capital contribution establishing a reserve fund for repair and replacement of capital items maintained as a Neighborhood Expense, if any, within the Neighborhood.

Neighborhood Expenses shall be allocated equally among all Lots within the Neighborhood benefitted thereby and levied as a Neighborhood Assessment. If specified in the Supplemental Declaration applicable to such Neighborhood or if so directed by petition signed by the Owners of a majority of the Lots within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on Dwelling Units or other Improvements shall be levied on each of the benefitted Lots in proportion to the benefit received. Such proportion shall be specified in the Supplemental Declaration applicable to such Neighborhood, or if not so specified, shall be approved by the Owners of a majority of the Lots within the Neighborhood, and Declarant, as long as Declarant owns any real estate within such Neighborhood.

After the Declarant Control Period, portions of a budget and proposed assessment for a Neighborhood may be disapproved by a majority vote of the Voting Members who represent Lots in the Neighborhood for which the Neighborhood budget applies, as provided in this paragraph. There shall be no obligation to call a meeting for the purpose of considering the Neighborhood budget except on petition of Voting Members representing at least ten percent (10%) of votes in such Neighborhood, which petition must be presented to the Board within thirty (30) days after notice of the proposed Neighborhood Assessments. Notice of Neighborhood Assessment shall be provided as set forth in Section 8.3. The right to disapprove a portion of a budget and proposed assessment provided for herein shall apply only to those line items in the Neighborhood budget which are attributable to services requested by Owners within the Neighborhood. In the event the Owners within any Neighborhood disapprove any line item of a Neighborhood budget, the Association shall not be obligated to provide the services anticipated to be funded by such line item of the budget. If the Board fails for any reason to determine the Neighborhood budget for any year, then and until such time as such budget shall have been determined as provided herein, the Neighborhood budget in effect for the immediately preceding year shall continue for the current year.

8.5 Computation of Limited Common Area Assessment. The Board shall prepare a separate budget covering the estimated Limited Common Area Expenses for each Limited Common Area on whose behalf Limited Common Area Expenses are expected to be incurred during the year to which the proposed budget applies and may make amendments thereto from time to time. The budget, as well as any amendments, shall be subject to the same sixty (60) day

preparation and availability requirements set forth in **Section 8.3**. The Board shall be entitled to set such budget only to the extent that (a) the Governing Documents specifically authorize the Board to assess certain costs as a Limited Common Area Expense, or (b) the Association expects to incur expenses to provide additional services for such Limited Common Area. Such budget shall include a capital contribution establishing a reserve fund for repair and replacement of capital items maintained as a Limited Common Area Expense, if any.

Limited Common Area Expenses shall be allocated equally among all Lots benefitted thereby.

Notice shall be given and approval obtained for each Limited Common Area Assessment from the voting members to whom the assessment would apply in the same manner as provided in **Section 8.3** with respect to Base Assessments. If the Board fails for any reason to establish the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue until a new budget is prepared as provided herein.

8.6 Reserve Budget and Capital Contribution. The Board shall annually prepare a reserve budget which takes into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. The reserve budget may be amended from time to time as circumstances require. Such reserve budget may also anticipate making additional capital improvements and purchasing additional capital assets. The Board shall include in Base Assessment and Limited Common Area Assessments reserve contributions in amounts sufficient to meet these projected needs. So long as the Board exercises business judgment in determining an adequate amount of reserves, the amount of the reserve fund shall be considered adequate.

The Board may adopt resolutions regarding the expenditure of reserve funds, including policies designating the nature of assets for which reserve funds may be expended. Such policies may differ for general Association purposes, and for each Limited Common Area. During the Development Period, neither the Association nor the Board shall adopt, modify, limit or expand such policies without the Declarant's prior written consent.

8.7 Special Assessments. In addition to other authorized assessments, the Board may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted, including unbudgeted capital expenditures. Any such Special Assessment may be levied against all Lots, if such Special Assessment is for Common Expenses or against Lots which have the right to use Limited Common Area, if such Special Assessment is for Limited Common Area Expenses. Special Assessments may be levied against the Lots within a Neighborhood if the Special Assessment is for Neighborhood Expenses. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Such Special Assessments shall become effective unless (a) disapproved at a meeting of the Owners by the vote of Voting Members representing at least two-thirds (2/3) of the total votes allocated to Lots which will be subject to such Special Assessment, or (b) if, during the Development Period, the Special Assessment is disapproved by the Declarant.

There shall be no obligation to call a meeting for the purpose of considering Special Assessments except on petition of the Voting Members or Owners as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within thirty (30) days after notice of the Special Assessment. Notice of Special Assessment shall be provided as set forth in **Section 8.3**.

8.8 Benefitted Assessments. The Board may levy "Benefitted Assessments" against particular lots for expenses incurred or to be incurred by the Association, as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items or Special Services to the Lot or Residents thereof, which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing a Lot or Lots into compliance with the terms of the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or Residents of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Benefitted Assessment under this subsection (b).

(c) as may be otherwise provided in this Declaration or any Supplemental Declaration.

8.9 Creation and Enforcement of Lien and Personal Obligation: The Declarant for each Lot hereby covenants, and each Owner of a Lot by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance) shall be and is deemed to covenant and hereby agrees to pay to the Association all Charges made with respect to the Owner or the Owner's Lot. Each Charge, together with interest thereon, late charges, and reasonable costs of collection (including reasonable attorney's fees), if any, as hereinafter provided, shall be a continuing lien upon the Lot against which such Charge is made and also shall be the personal obligation of the Owner of the Lot at the time when the Charge becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

In the event an Owner fails to pay any Charge within thirty (30) days of the date on which it is due, the Association may pursue all actions and remedies allowed by law to enforce and collect the Charge. The enforcement rights of the Association shall include, but not be limited to, the filing of a Notice of Claim of Lien in the Public Records, which lien may thereafter be immediately foreclosed in the same manner as a mortgage under Georgia law. The Association may also bring an action of law against any Owner personally obligated to pay all or any portion of the Charges due. The amount secured and recoverable shall include (a) all Charges accrued at the date of filing and those accruing thereafter through the date of judgment, (b) all additional charges as provided and permitted in **Section 8.10**, and (c) reasonable attorney's fees and collection costs. All enforcement rights of the Association shall be cumulative.

8.10 Non-Payment of Charges: Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for thirty (30) days or more shall bear interest at eighteen (18%) percent (or the maximum allowed by law, if less), per annum from the due date to the date when paid. In addition, the Association may assess reasonable late fees. The Association shall be entitled to charge and recover from the delinquent Owner the reasonable attorney's fees and collection costs it incurs, as well.

8.11 Lien for Charges Subordinated to Mortgages: The lien for a Charge, provided for in **Section 8.9**, shall be subordinate to a Mortgage on the Lot which was recorded prior to the date that the lien for any such Charge attached. Except as hereinafter provided, the lien for Charges, provided for in **Section 8.9**, shall not be affected by any sale or transfer of a lot, regardless of whether the notice permitted under **Section 8.9** is filed at the time of the sale or transfer. Where title to a Lot is transferred pursuant to a decree of foreclosure of the Mortgage, such transfer of title shall extinguish the lien for unpaid Charges which became due prior to the date of the transfer of title. However, the transferee of the Lot shall be personally liable for his share of the Charges with respect to which a lien against his Lot has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the Owners pursuant to a subsequently adopted annual or revised Base Assessment, Neighborhood Assessment, Limited Common Area Assessment, Benefitted Assessment, Special Assessment, and non-payment thereof shall result in a lien against the transferee's Lot, as provided in this Article.

8.12 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the first day of the month following: (a) the month in which the Lot is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment, Neighborhood Assessment, and Limited Common Area Assessment, if any, levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

8.13 Failure to Assess or Provide Notice. Failure of the Board to prepare a budget, to fix assessment amounts or rates or to provide notice shall not be deemed to be a waiver, modification, or release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments, Neighborhood Assessments, Limited Common Area Assessments, and Benefitted Assessments on the same basis as during the last period for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.14 Exempt Property. The following property shall be exempt from payment of Base Assessments, Limited Common Area Assessments, Benefitted Assessments and Special Assessments:

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

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

In addition, the Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for Section 501(c) status under the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.15 Utility Costs Billed to Owners: Certain utility charges incurred in connection with the use, operation and maintenance of the Common Area may not be separately metered to the Common Area. If such charges are metered to an individual Dwelling Unit rather than being separately metered for the Common Area, then the following shall apply:

(a) If, in the opinion of the Board, each Owner is sharing in a fair and equitable manner the cost of such service, then no adjustment shall be made and each Owner shall pay his own bill; or

(b) If, in the opinion of the Board, the Owner of a Dwelling Unit is being billed disproportionately for costs allocable to the Common Area, then the Association shall pay, or reimburse such Owner, an amount equal to the portion of the bill which in the reasonable determination of the Board is properly allocable to the Common Area, as the case may be, and the amount thereof shall be Common Expenses or Limited Common Area Expenses hereunder, as applicable.

Any determinations or allocations made hereunder by the Board shall be final and binding on all parties.

8.16. New Member Fee.

NOTE WELL: This section provides for the collection of a New Member Fee which is payable at the closing of each and every transfer of title to a Lot, unless the transaction is specifically exempted under Subsection (d). While expressly payable by the grantor, the Association's lien securing payment of the New Member Fee shall survive the passage and transfer of title in the event the fee is not collected and paid to the Association at closing.

(a) Authority. As an additional funding source in addition to the administrative or transfer fee collected to cover administrative costs of membership transfer; the Association shall collect a New Member Fee upon each and every transfer of title to a Lot, other than exempt transfers as set forth herein. The New Member Fee shall be charged to and payable by the grantor of the Lot at the closing of the transfer, and shall be secured by the Association's lien for assessments, which lien shall not be affected by the transfer of title. Each Owner transferring a Lot shall notify the Association's secretary or designee at least seven days prior to the scheduled closing. Such notice shall include the name of the buyer, the date of title transfer, and other information the Association may reasonably require.

(b) Fee Limit. The fee shall equal 1/3 of one percent (1/3%) of the Gross Selling Price of the Lot, with all improvements, upgrades and premiums included, and shall be due upon the transfer of title to the Lot. For purposes hereof, the "Gross Selling Price" shall be the total cost to the purchaser of the Lot, excluding governmental transfer taxes, if any, imposed on the transfer.

(c) Purpose. New Member Fees shall be used for purposes which the Association Board deems beneficial to meet the general operating needs of the Association. By way of example and not limitation, New Member Fees may be used to assist the Association or one or more tax-exempt entities in funding operating and maintenance costs for recreational facilities, common areas open space preservation and all other funding needs for operating the Association.

(d) Exempt Transfers. Notwithstanding the above, no New Member Fee shall be levied upon transfer of title to property:

(i) by or to the Declarant;

(ii) by a builder or developer holding title solely for purposes of development and resale;

(iii) by a co-owner to any Person who was a co-owner immediately prior to such transfer;

(iv) to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;

(v) to an entity wholly owned by the grantor or to a family trust created by the grantor for the direct benefit of the grantor and his or her spouse and/or heirs at law; provided, upon any subsequent transfer of an ownership interest in such entity, the New Member Fee shall become due;

(vi) to an institutional lender as security for the performance of an obligation pursuant to a Mortgage; or

(v) to or by the Association.

ARTICLE IX
ARCHITECTURAL STANDARDS

NOTE WELL: The provisions of this Article IX are broad and sweeping and an extremely wide range of activities are regulated hereby. Owners are advised to review this Article carefully to ensure that they comply with all of its requirements before commencing any work or engaging in any activity on or in connection with their Lot to ensure they comply with all of the provisions set forth. Regulated work commenced, performed, or completed without prior approval as required herein or otherwise in violation of the terms of this Declaration or

applicable law may subject the Owner of the Lot to substantial costs, expenses, fees, and penalties, which may be in addition do a requirement that the Lot be restored to its original condition.

9.1 General. For purposes hereof "Regulated Work" shall consist of and include (1) excavating, filling, grading, installation or alteration of landscaping; (2) construction, installation, or placement of any building, driveway, walkway, fence, porch, patio, deck, balcony, statuary, sign or other advertising or promotional devices or any other temporary or permanent improvement or structure on or to any portion of the Properties; or (3) any modification, alteration, major repair, renovation, addition or removal of or to any of the foregoing which is visible from outside of a Dwelling Unit. Regulated Work shall not include repainting the exterior of a structure in accordance with the originally approved color scheme or rebuilding of a damaged Dwelling Unit in accordance with originally approved plans and specifications. Regulated Work shall also not include work done by the Declarant during the Development Period. Unless specifically provided in the Supplemental Declaration which makes real estate which is part of a condominium subject to the terms of this Declaration as part of the Properties, Regulated Work shall not include any work on or to any real estate which is made subject to the Georgia Condominium Act by Declarant.

During the Development Period, this Article may not be amended without the Declarant's written consent.

9.2 Architectural and Design Review. Responsibility for administration of the Design Guidelines, as defined below, and review of all applications to do Regulated Work under this Article shall be as described in subsections (a) and (b). The Reviewing Entity (defined below), may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may, in its discretion, include all or a portion of the compensation paid to such persons employed by the Association in the Association's annual operating budget as a Common Expense.

(a) Declarant Control. During the Development Period, the Declarant shall have exclusive right and power to review and approve or disapprove any and all proposed Regulated Work. The Declarant may (but shall not be obligated to), in its sole discretion, delegate all or a portion of its reserved rights under this Article to the MC (defined below) to review modifications to existing structures. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (i) the right of Declarant to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) the right of Declarant to veto any decision which it determines, in its sole discretion, to be inappropriate or inadvisable for any reason. Until the end of the Development Period, the jurisdiction of the MC shall be limited to such matters as are specifically delegated to it. In acting pursuant to this subparagraph the Declarant shall be acting solely in its interests and shall owe no duty to the Association or any Owner or Resident.

(b) Modifications Committee. The Board of Directors shall establish a committee, which may consist of Residents (the "Modifications Committee" or "MC"). Until the end of the Development Period, the MC shall only have such rights and powers to review and approve or disapprove modifications or alterations to be made to existing structures as may be delegated to it by the Declarant provided, that, in no event shall the MC have the right or power to review modifications to be made to any portion of the Properties which part of a condominium is under the Georgia Horizontal Property Act. The MC shall assume exclusive jurisdiction over all Regulated Work at the end of the Development Period. During the Development Period, the Declarant shall have the right to veto any action taken by the MC which the Declarant determines, in its sole discretion, to be inconsistent with the Design Guidelines.

(c) For purposes of this Article, the term "Reviewing Entity" shall mean the Declarant or the MC, as applicable.

9.3 Guidelines and Procedures. During the Development Period, the Declarant, and after the end of the Development Period, the MC, may prepare and may amend Design Guidelines which shall apply to all Regulated Work within the Properties. Any amendments to the Design Guidelines shall apply to Regulated Work commenced after the date of such amendment only and shall not apply to require modifications to or removal of Regulated Work previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the Design Guidelines may be amended to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive.

The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, intended use, the Master Plan, and any other applicable zoning ordinances. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the Reviewing Entity and compliance with the Design Guidelines does not guarantee approval of any application.

The Association shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties and all such Persons shall conduct their activities in accordance with such Design Guidelines. In the Declarant's discretion, such Design Guidelines may be recorded in the Public Records, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

All Regulated Work shall be done in strict compliance with the Design Guidelines in effect at the time the plans for the Regulated Work are submitted to and approved by the Declarant or the MC, as applicable, unless a variance has been granted in writing pursuant to **Section 9.6**. So long as the Reviewing Entity has acted in good faith, its findings and

conclusions with respect to appropriateness of, applicability of or compliance with the Design Guidelines and this Declaration shall be final.

9.4 Submission of Plans and Specifications.

(a) Prior to commencing any Regulated Work, an Owner shall submit an application for approval of the proposed Regulated Work to the appropriate Reviewing Entity. Such application shall be in the form required by the Reviewing Entity and shall include detailed plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefor and other features of proposed construction, as applicable. The Design Guidelines shall set forth the procedure and any additional information for submission of the Plans. Before the Owner may begin the proposed Regulated Work, the application must be approved by the Reviewing Entity in accordance with the procedures described below.

(b) In reviewing each submission, the Reviewing Entity may consider whatever factors it deems relevant. The Declarant or the MC, as applicable, may require relocation of native plants within the construction site or the installation of an irrigation system for the landscaping including the natural plant life on the Lot as a condition of approval of any submission.

The Reviewing Entity shall advise the party submitting the application at an address specified by such party at the time of submission, of (i) the approval of Plans, (ii) the rejection of Plans and the reasons therefor, or (iii) the partial rejection of the Plans identifying aspects of the Plans determined to be unacceptable and the reasons therefor. **All responses must be in writing.** No application or Plans shall be deemed "accepted" or "approved" based on any inaction or failure of the Reviewing Entity to respond. All Regulated Work shall be in strict accordance with all applicable laws, statutes, ordinances, environmental rules or regulations regardless of whether the response or Design Guidelines so state.

(c) If construction does not commence on a project for which Plans have been approved within one hundred twenty (120) days of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans to the Reviewing Entity for reconsideration. If construction is not completed on a project for which plans have been approved within the period set forth in the Design Guidelines or in the approval, such approval shall be deemed withdrawn, and such incomplete construction shall be deemed to be in violation of this Article and subject to the enforcement provisions of this Article.

(d) If landscaping is not installed, or not to be installed, by the Declarant or Builder, each Owner of a Lot shall, within a period of two hundred ten (210) days from the conveyance of the Lot to the Owner by the Declarant or a Builder, install full landscaping in the Owner's yard in accordance with plans approved by the Reviewing Entity and meeting the minimum requirements set forth in the Design Guidelines.

9.5 No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications will change from time to time and that opinions on aesthetic matters, as well as the interpretation, application and enforcement of the Design Guidelines, may vary

accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.6 Variance. The Reviewing Entity may authorize variances from its guidelines and procedures, but only: (a) in accordance with duly adopted rules and regulations, (b) when unique circumstances dictate, such as unusual topography, natural obstructions, hardship or aesthetic or environmental considerations, and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining properties. **All variances must be in writing.** Inability to obtain or the terms of any governmental approval, or the terms of any financing shall not be considered a hardship warranting a variance. Notwithstanding the above, during the Development Period, the MC may not authorize variances without the written consent of the Declarant.

9.7 Limitation of Liability. The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the over all aesthetics of Sun City Peachtree; they do not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and the Reviewing Entity shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, whether or not Declarant has approved or featured such contractor as a builder in Sun City Peachtree; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Dwelling Unit. In all matters, the Declarant, the Board, the MC, and the members of each shall be defended and indemnified by the Association as provided in **Section 4.6**.

9.8 Enforcement. Any construction, alteration or other work done without prior written approval or otherwise in violation of this Article or the Design Guidelines shall be deemed to be non-conforming. Upon written request from the Declarant, the MC, or the Board, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure such nonconformance to the satisfaction of the requester or restore the property, Lot and/or Lots to substantially the same condition as existed prior to the non-conforming work. Should an Owner fail to remove and restore as required, the Declarant, the Association or its designees shall have the right to enter the Lot, remove the violation, and restore the property to substantially the same condition as previously existed. All such costs, together with the interest at the rate established by the Board (not to exceed the maximum rate then allowed by law), may

be assessed against the benefitted Lot and collected as a Benefitted Assessment unless otherwise prohibited in this Declaration.

All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work by the deadline set forth in the approval, the Declarant or the Association shall be authorized, after notice to the Owner of the Lots and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lots and remove or complete any incomplete work and to assess all costs incurred against the Lots and the Owner thereof as a Benefitted Assessment unless otherwise prohibited in this Declaration.

The above rights to enter and correct shall be in addition to and not in lieu of all the rights and remedies available to the Association under this Declaration or applicable law. If an Owner's failure to act make entry necessary or desirable, neither the Declarant, the Association, nor its designees shall incur any liability to the Owner for doing so, all potential liability and/or claims being expressly waived and released.

All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, none of the Declarant, the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

The Association shall be primarily responsible for enforcement of this **Article IX**. If, however, in the discretion of the Declarant, the Association fails to take appropriate enforcement action, as authorized herein, within a reasonable time period, the Declarant, during the Development Period, may, but shall not be obligated to, exercise enforcement rights in the same manner as set forth above. In addition to the foregoing, the Association and the Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Reviewing Entity.

ARTICLE X
USE RESTRICTIONS

NOTE WELL: Any improvement or activity on a Lot which constitutes Regulated Work as defined under Article IX which may be permissible under this Article X, nevertheless remains subject to regulation, review and approval pursuant to Article IX whether or not reference is made to Article IX in any of the sections and provisions of this Article X.

The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any managing agent or agents retained by the

Association or business offices for the Declarant or the Association consistent with this Declaration and any Supplemental Declaration). Any Supplemental Declaration or rules and regulations of the Board may impose stricter standards than those contained in this Article and the Association shall have standing and the power to enforce such standards.

10.1 Signs. No sign shall be erected, placed or displayed within the Properties, either inside or outside of buildings or improvements, without the written consent of the Board, except those required by law, including, without limitation, "For Sale" signs, "For Rent" signs, "For Lease" signs, political signs, posters, circulars and billboards. If permission is granted to any Person to erect a sign within the Properties, the Declarant or MC, as applicable, shall have the right to restrict the size, color, lettering, and placement of such sign. The Declarant shall have the right to erect signs as they, in their discretion, deem appropriate, including, without limitation, "for sale," entry and directional signs.

10.2 Vehicles and Parking. No automobile, truck, commercial vehicle, recreational vehicle, motorcycle, other motorized vehicle or cart, boat, trailer, or other wheeled vehicle or equipment, whether motorized or not motorized, shall at any time be parked or stored on any portion of the Properties other than in a garage. For purposes of this Declaration, "commercial vehicle" shall include any vehicle bearing any commercial or business markings or which is used, in whole or in part, for any commercial or business purpose, regardless of its markings or configuration. Notwithstanding the foregoing, vehicles may be parked or placed on the paved driveway of a Lot as follows:

(a) If the Owner or lawful occupants of the Dwelling Unit have two private, personal, non-commercial vehicles and a golf cart or other approved electric powered vehicle for neighborhood transportation ("NEV"), one of the passenger vehicles or the NEV may be parked on the driveway when the other two vehicles are in the garage;

(b) Automobiles, trucks, commercial vehicles, recreational vehicles boats, watercraft, trailers or other wheeled vehicles may be parked on driveways for up to a total of 48 hours during any consecutive seven (7) days, or as expressly and specifically permitted by the Board in writing or in rules and regulations adopted by the Board.

(c) All vehicles, personal property, or equipment parked or left on driveways shall at all times be operable and properly licensed and inspected as by law required. The Board may request and the Owner shall provide evidence or verification of operability or proper license or inspection, from time to time.

The Board shall have the authority to adopt additional rules and regulations regarding the presence and use of vehicles on any portion of the Properties, including, without limitation, parking or periods during which Dwelling Unit garage doors must be closed.

10.3 Occupants Bound. All provisions of the Governing Documents shall also apply to all Residents, tenants, lessees, guests, and invitees of any Dwelling Unit ("Occupant"). Every Owner shall cause all Occupants comply with the foregoing, and every Owner shall be responsible for all violations, losses, or damages caused by an Occupant, notwithstanding the

fact that such Occupant is fully liable and may be sanctioned for any violation. In addition to all other remedies available to the Association in the event of a violation by an Occupant, the Association may require that the Occupant be removed from and not allowed to return to the Properties and/or that any lease, agreement or permission given allowing the Occupant to be present be terminated.

10.4 Animals and Pets. No animals of any kind, including livestock and poultry, shall be raised, bred, or kept on any portion of the Properties, except that for each Dwelling Unit there shall be permitted up to a total of three (3) dogs or three (3) cats or a combination of dogs and cats not to exceed three (3) in total, no more than two (2) birds, and a reasonable number, as determined by the Board, of other usual and common household pets, subject to compliance with applicable local laws, codes and ordinances. In no event, however, shall monkeys, snakes, pigs, or ferrets be permitted in any Dwelling Unit.

Fecal waste deposited by any pet on portions of the Properties other than the lot of the Owner must be immediately removed and properly disposed of by the Owner. Fecal waste deposited by any pet on or around the Lot of its Owner must be cleaned up and removed at least once every seven (7) days. Pets which are permitted to roam free, or which, in the sole discretion of the Board, make objectionable noise, endanger the health or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Properties shall be removed from the Properties upon request of the Board. If the Owner fails to honor such request, the pet may be removed by the Board.

The Board may adopt reasonable rules designed to minimize damage and disturbance to other Owners and Residents, including rules requiring damage deposits, waste removal, leash controls, noise controls, pet occupancy limits based on size and facilities of the Lot and fair share use of the Common Area; provided, however, any rule prohibiting the keeping of ordinary household pets shall apply prospectively only and shall not require the removal of any pet which was being kept on the Properties in compliance with the rules in effect prior to the adoption of such rule. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of Residents or from requiring abatement of any nuisance or unreasonable source of annoyance. No pets shall be kept, bred, or maintained for any commercial or business purpose.

10.5 Quiet Enjoyment. Nothing shall be done or maintained on any part of a Lot which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to unreasonably disturb the peace, quiet, safety, comfort, or serenity of the Residents and invitees of other Lots. No activity shall be carried on upon any portion of the Properties, which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the Residents and invitees of other Lots, as may be determined in the sole discretion of the Board.

10.6 Unsightly or Unkempt Conditions. All portions of a Lot outside of enclosed structures shall be kept in a clean and tidy condition at all times. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or

detrimental to any other portion of the Properties. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Properties. No activities shall be conducted upon or adjacent to any lot or within improvements constructed thereon which are or might be unsafe or hazardous to any Person or property. No open fires shall be lighted or permitted on the Properties, except in a barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior fireplace. No Owner shall engage in any activity which materially disturbs or destroys the vegetation, wildlife, or air quality within the Properties or which result in unreasonable levels of sound or light pollution. The determination as to whether a condition or activity violates this section shall be made by the Board acting in its sole discretion.

10.7 Antennae. Standard TV antennas and other over-the-air reception devices (including satellite dishes) of less than one (1) meter in diameter shall be permitted upon the Properties. **All other antennae, signal transmission devices or signal reception devices are prohibited.** Location and installation of permitted devices shall comply with any and all Design Guidelines, or other applicable rules and guidelines adopted pursuant to Article IX; provided, however, that such rules or regulations do not unreasonably delay or increase the cost of installing, maintaining, or using such devices. Declarant and the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus (of any size) for a master antenna, cable, or other communication system for the benefit of all or any portion of Sun City Peachtree, should any master system or systems require such exterior apparatus.

10.8 Fences and Dog Runs. No wall, dog run, animal pen, or fence of any kind shall be constructed on any Lot, except as approved in accordance with **Article IX**.

10.9 Exterior Lighting. Except for seasonal holiday decorative lights, which may be displayed between November 15 and January 15 only, all exterior lights must be approved in accordance with **Article IX** of this Declaration.

10.10 Temporary Structures. Tents, shacks, or other structures of a temporary nature shall not be permitted on any Lot, except as approved in accordance with **Article IX** or as may be authorized by the Declarant during initial construction within the Properties. Temporary structures used during the construction or repair of a Dwelling Unit or other improvements shall be removed immediately after the completion of construction or repair.

10.11 Storage. Placement or storage of furniture, fixtures, appliances, machinery, equipment or other goods and chattels on the Common Area is prohibited. Placement or storage of furniture, fixtures, appliances, machinery, equipment or other goods and chattels not in active use on any portion of a Lot shall not be permitted, except as approved in accordance with **Article IX**. Storage buildings, sheds, and any other structures detached from the primary residential dwelling are prohibited.

10.12 Subdivision of Lot and Time-Sharing. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board; provided, however, the Declarant, its successors and assigns hereby expressly reserve the right unilaterally to subdivide,

change the boundary line of, and re-plat any Lot(s) owned by Declarant, its successors and assigns during the Development Period.

No Dwelling Unit shall be made subject to any type of timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Dwelling Unit rotates among members of the program on a fixed or floating time schedule over a period of years. However, the Declarant hereby reserves the right for itself and its assigns to operate such a program.

10.13 Firearms/Fireworks. The discharge of firearms or fireworks within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, paintball markers, and other firearms of all types, regardless of size. Nothing herein shall be construed to prohibit the Declarant or the Association from using portions of the Common Area from time to time to put on a fireworks show.

10.14 Wetlands, Lakes, and Other Water Bodies. The lakes, ponds, streams and other water bodies within the Properties are aesthetic or for storm water management purposes and are not intended to be accessible to Members. Unless the Board approves a limited use of a specific water body, which use would be subject to all applicable laws, rules regulations and permit requirements, **use of water bodies for swimming, wading, fishing, boating or other recreational activities is expressly prohibited**. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of any use of lakes, ponds, streams or other bodies of water within or adjacent to the Properties.

NOTE WELL: Certain areas within the Properties are designated as wetlands mitigation preservation or buffer areas and are restricted as to uses by special covenants approved by the U.S. Army Corps of Engineers (the "COE"). Activities are heavily regulated and restricted by separate special covenants approved by the COE. No Owner shall disturb any such area in any manner at any time. Declarant, the Association and other entities engaged in managing those areas may initiate controlled burns and other permitted maintenance activities and in so doing shall not be liable for any alleged damages resulting therefrom.

10.15 Business Use and Leasing. No commercial activity, business trade, or similar activity shall be conducted in or from any Lot, except that an Owner or Resident may conduct ancillary business activities within the Dwelling Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve regular visitation of the Dwelling Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board. "Business and trade" shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the family of the producer of such goods or services and for which the producer receives a fee,

compensation, or other form of consideration, regardless of whether (a) such activity is engaged in full or part time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

This Section shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Dwelling Units which it owns within the Properties, including the operation of a timeshare or similar program.

The leasing of a Dwelling Unit shall not be considered a business or trade within the meaning of this subsection. "Leasing," for purposes of this Declaration, is defined as occupancy of a Dwelling Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Dwelling Units may be leased only in their entirety. No fraction or portion of any Dwelling Unit may be leased or rented. There shall be no subleasing of Dwelling Units or assignment of leases unless prior written approval is obtained from the Board. All leases shall be in writing and shall contain such terms as the Board may prescribe from time to time. All leases shall provide that they may be terminated in the event of a violation of the Governing Documents by a tenant or a tenant's family, guests or invitees, and the Board, in its discretion, may require termination by the Owner and eviction of the tenant in such event.

All leases shall be for an initial term of no less than six (6) months, except: (a) with the prior written consent of the Board or (b) as initially authorized by Declarant in a Supplemental Declaration for certain Dwelling Units. The Owners may not amend this provision to prohibit leasing of Dwelling Units authorized by Declarant for rental to transient tenants and for a term less than six (6) months until the end of the Development Period. Any Owner who leases a Dwelling Unit pursuant to the authority set forth herein is specifically referred to **Section 10.1** which, among other things, regulates signage in connection with the leasing of Dwelling Units.

Notice of any lease, together with a complete copy of the lease and such additional information as may be required by the Board, shall be given to the Board by the Dwelling Unit Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the Governing Documents. The Board may adopt reasonable rules regulating or restricting leasing and subleasing.

The barter, sale, or exchange of new or used personal property on any lot (by way of description and not limitation, such events are commonly referred to as "yard sales," "moving sales," "attic sales," or "garage sales") will be allowed only if (a) sponsored by the Association, or (b) expressly authorized in writing by the Association. The Association may, but it is not required to, adopt rules and regulations regarding such sales.

10.16 Occupancy. Dwelling Units shall not be occupied by more than two (2) persons per bedroom in the Dwelling Unit.

10.17 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are approved in accordance

with **Article IX** or as required by the applicable governing jurisdiction and, if applicable, the private collection contractor. In no event shall such containers be maintained so as to be visible from outside the Lot unless they are being made available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from the Lot and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

10.18 Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Dwelling Unit and no clothes, sheets, blankets or laundry of any kind shall be hung outside on any portion of the Properties.

10.19 Snowmobiles, ATV's, and Unlicensed Motorized Vehicles Regulated. The operation of snowmobiles, ATV's or other unlicensed or motorized vehicles within the Properties is prohibited except as expressly permitted in writing by the Board.

10.20 Unlawful Acts or Omissions. Any act or omission which is in violation of any law, code, ordinance, governmental rule or regulation, shall not be done, permitted or allowed to remain or continue.

10.21 Bird and Squirrel Houses. No Lot shall be allowed to have more than three (3) bird houses and/or feeders. Permitted bird houses and feeders shall all be hung from an approved structure or mounted on a single pole. In no event shall any permitted bird house or feeder be hung or mounted higher than the height of the eave of the Dwelling Unit. With the exception of the foregoing, residents shall not house or feed wildlife or create or maintain conditions or structures which attract wildlife to the Properties.

10.22 Flagpoles. No Lot shall be allowed to have a free standing flagpole of any type. Flags on Dwelling Units must be flown only on poles mounted to the side of the Dwelling Unit by a bracket. Notwithstanding the forgoing, one portable, removable United States flag may be displayed in a respectful manner and consistent with 36 U.S.C. Sections 171-178, as amended, on each Dwelling Unit.

10.23 Above-Ground Pools. The installation of an above-ground swimming pool (perimeter extended higher than surrounding, natural grade) on any Lot is prohibited. The foregoing does not apply to indoor or outdoor jacuzzis and hot-tubs included within a deck, screened from view from neighboring Dwelling Units and installed with the prior approval in accordance with **Article IX**.

10.24 Irrigation/Wells. No sprinkler or irrigation system of any type which would draw water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties. All sprinkler and irrigation systems shall be subject to approval in accordance with **Article IX** of this Declaration. Private wells are prohibited on the Properties. The provisions of this Section shall not apply to wells or irrigation systems installed or authorized by Declarant or the County.

10.25 Drainage and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves a perpetual easement across the Properties for the purpose of altering drainage and water flow; provided, such easement right shall not be exercised in such a manner as to unreasonably interfere with the use of any Dwelling Unit without the affected Owner's consent. Private septic or sewage disposal systems are prohibited on the Properties.

10.26 Air Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioning units or window fans may be installed in any Dwelling Unit.

10.27 Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with **Article IX** of this Declaration.

10.28 Stormwater Effects. The Project has been planned so that low-lying areas adjacent to creeks are generally designated for open space and recreational uses. Portions of the Common Area and adjacent areas are within the regulated flood plain as determined in accordance with Federal Emergency Management Agency guidelines. During and after storm events, certain portions of the Common Area such as creek side walking trails may be inundated and unavailable for recreational use.

ARTICLE XI
EASEMENTS

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

11.2 Easements for Utilities.

(a) There are hereby reserved to the Declarant during the Development Period, and granted to the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties to the extent reasonably necessary to install, replace, repair, and maintain cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, lakes,

ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity. The Declarant and/or the Association may assign these rights to any local utility supplier, cable company, security company or other company providing a service or utility to the Properties subject to the limitations herein.

This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any Dwelling Unit, and any damage to a Dwelling Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Dwelling Unit and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or Resident.

Declarant specifically grants to the local utility suppliers easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the structures on any Lot, nor shall any utilities be installed or relocated on the Properties, except as approved by the Board or Declarant.

In addition to the foregoing, the Sanitary Sewer Service Provider shall have an easement over, under, across and through all portions of the Common Area and all Lots for the installation, maintenance, inspection, repair, inspection, replacement and use of all portions of the Sanitary Sewer System that shall be installed as part of the development of the Community. Said easement shall include the right of vehicular and pedestrian access over, across and through all paved portions of the Common Areas and the Lots to and from all components of the Sanitary Sewer System, including the sewage treatment plant and across Lots as necessary to reach components of the Sanitary Sewer System.

(b) There is hereby reserved to the Declarant during the Development Period, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of the Annexable Property or any real estate described on Exhibit A.

11.3 Easements to Serve Additional Property. During the Development Period, the Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Annexable Property, whether or not such real estate is made part of the Properties. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such real estate. Declarant further agrees that if the easement is exercised for permanent access to such real estate and such real estate or any portion thereof benefitting from such easement is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the

cost of any maintenance which the Association provides to or along any roadway providing access to such real estate.

11.4 Easements for Golf Course. In addition to the easements provided for in Paragraph 15.3 hereof, the Golf Course Owner, its successors, and assigns, as well as its agents, members, guests, invitees, employees, and authorized users of such golf course, shall at all times have a right and non-exclusive easement of access and use over all roadways and golf cart paths, if any, located or to be located within the Properties and reasonably necessary to travel to and from the Golf Course. The Association shall permit the parking of vehicles on the streets within the Properties at reasonable times before, during, and after golf tournaments and other similar functions held at the Golf Course.

11.5 Easements for Cross-Drainage. The Declarant hereby reserves for itself and grants to the Association that an easement across every Lot and all Common Area for natural drainage of storm water runoff from other portions of the Properties; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner(s) of the affected property, the Board, and, during the Development Period, the Declarant.

11.6 Right of Entry. The Declarant hereby grants to the Association an easement of access and right, but not the obligation, to enter all portions of the Properties, including each Dwelling Unit, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents of the Association, its Board, officers, or committees, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry into a structure on a Lot shall be only during reasonable hours and after notice to and permission from the Owner thereof, which shall not be unreasonably withheld. This easement includes the right to enter any Dwelling Unit to cure any condition which increases the risk of fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but does not authorize entry into any Improvement without permission of the Owner, except by emergency personnel acting in their official capacities.

11.7 Easements for Maintenance and Enforcement. The Declarant hereby grants to the Association and its authorized agents, a perpetual easement and right to enter all portions of the Properties, including each lot to (a) perform its maintenance responsibilities under **Article V**, and (b) make inspections to ensure compliance with the Governing Documents. Except in emergencies, entry into a Dwelling Unit shall be only during reasonable hours and after notice to and permission from the Owner which shall not be unreasonably withheld. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense.

The Declarant grants to the Association an easement and the right to enter a Lot and each Dwelling Unit to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys' fees, shall be assessed against the violator as a Benefitted Assessment.

11.8 Easements for Exterior Landscaping and Maintenance. The Declarant hereby grants to the authorized agents of the Association the right to enter upon each Lot to furnish services required or permitted to be furnished by the Association hereunder or under any Supplemental Declaration. Any damage caused by the exercise of this Easement shall be repaired by the Association at its expense.

11.9 Rights to Stormwater Runoff, Effluent and Water Reclamation. Declarant hereby reserves for itself and its designees all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Properties, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such rights shall include the reservation of an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent. This Section may not be amended without the consent of the Declarant or its successor, and the rights created in this Section shall survive termination of this Declaration.

11.10 Easements for Freestanding Retaining Walls. Declarant reserves to itself and grants to the Association a perpetual easement over Easement Areas located on Dwelling Units for the purpose of maintenance, repair, and replacement of the freestanding retaining walls constructed by the Declarant generally along and parallel to the real property lines of some Lots. The "Easement Area," as defined herein, shall extend for a distance of twenty feet (20') on each side of all retaining walls, shall include access as may be necessary from a public street to each retaining wall and shall burden each Lot, a portion of which falls within the Easement Area, including those that may be necessary for access. No person shall change, modify, or affect in any way a retaining wall located within any Easement Area as defined herein without prior written authorization from the Board.

ARTICLE XII
MORTGAGEE PROVISIONS

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

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

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

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued

for a period of sixty (60) days, or any other violation of the Declaration or By-Laws relating to such Lot or the Owner or Resident which is not cured within sixty (60) days;

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

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

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

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

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

ARTICLE XIII
SPECIAL DECLARANT RIGHTS

13.1 Special Declarant Rights. The Declarant reserves the following rights and powers ("Special Declarant Rights"):

(a) The rights and powers designated herein as being rights and powers of the Declarant to be exercised, during the Development Period, including, without limitation, the following:

(i) To complete, modify, revise or eliminate any improvements indicated on Plats, development plans filed with the Declaration, or the Master Plan; or to maodify the Master plan and/or Plats as reserved in **Sections 1.29** and **1.42**.

(ii) To add or withdraw real property from the terms of this Declaration as provided in **Article VII**;

(iii) To maintain sales offices, management offices, signs advertising on the Annexable Property and the property described on Exhibit A, as set forth in **Section 13.3**;

(iv) To use easements through the Common Area for the purpose of making improvements within the Annexable Property and the real property described on Exhibit A, as set forth in **Section 13.4;**

(v) To use the Common Area for special events as set forth in **Section 13.9** without the payment of any fee or charge;

(vi) To exercise architectural control, as set forth in **Article IX**; and

(vii) To furnish maintenance services, including, without limitation, watering of grass and other landscaping on portions of the Properties at Declarant's expense.

(viii) To unilaterally amend this Declaration as provided in **Section 17.2**.

(b) The rights and powers designated herein as being rights and powers of the Declarant to be exercised during the Declarant Control Period including, without limitation, the right and power to appoint and remove any director or officer of the Association as provided in the By-Laws.

13.2 Transfer of Special Declarant Rights.

(a) Assignment. The Declarant may assign any Special Declarant Rights, or other special rights and obligations of the Declarant set forth in this Declaration or the By-Laws to any affiliate of the Declarant or a Builder, or Declarant may allow any affiliate of the Declarant or a Builder to exercise such rights on behalf of the Declarant. The method of exercising such rights shall be subject to the agreement of the parties thereto, which shall not require recordation in the Public Records.

(b) Transfer. Any or all of the Special Declarant Rights, or any of the other special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

13.3 Models, Sales Offices and Management Offices. During the Development Period and for the period of twelve (12) months thereafter, the Declarant and Builders authorized by Declarant may maintain and carry on upon any Lot owned by Declarant or a Builder or any portion of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Dwelling Units or other real estate, including, but not limited to, business offices, signs, model units, marketing trails, and sales offices. The Declarant and authorized Builders shall have easements for access to and use of such facilities. Except as provided below, the Declarant's or Builder's right to use the Common Area for purposes stated in this paragraph shall not be exclusive and shall not unreasonably interfere with use of such Common Area by Owners.

13.4 Construction of Improvements/Removal of Property. The Declarant and its employees, agents and designees shall also have a right and easement during the Development Period over and upon all of the Common Area for the purpose of (a) making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion or (b) removing peat moss, dirt, gravel, trees, bushes, or other landscaping, and other material as the Declarant deems appropriate in its sole discretion. The Declarant shall not be obligated to pay or otherwise account to the Association for any material removed from the Common Area under (b) above.

13.5 Other Covenants Prohibited. During the Development Period, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's prior written consent. Any instrument recorded without such consent shall result in such instrument being void and of no force and effect unless subsequently approved in writing by the Declarant and recorded in the Public Records.

13.6 Master Planned Community. Each Owner, by accepting title to a Lot and becoming an Owner, and each other Person, by acquiring any interest in the Properties, acknowledges awareness that Sun City Peachtree is a master planned community, the development of which is likely to extend over many years, and agrees not to protest or otherwise object to (a) zoning or changes in zoning or to uses of, or changes in density of, the Properties during the Development Period, or (b) changes in any conceptual or master plan for the Properties, including, but not limited to, the Master Plan; provided, such revision is or would be lawful (including, but not limited to, lawful by special use permit, variance or the like) and is not inconsistent with what is permitted by the Declaration (as amended from time to time).

13.7 Vacation Getaways. The Declarant may, in its discretion, construct residential improvements for temporary residency in or adjacent to the Properties and designate such improvements as "Vacation Getaways." Vacation Getaways located outside of the Properties shall not be Dwelling Units hereunder, and their owners shall not be Members of the Association; provided, however, persons residing in such Vacation Getaways shall have access to the Common Area in consideration of the payment of such fees as provided by a contract or a Covenant to Share Costs.

Owners of Vacation Getaways located within the Properties shall be Members of the Association. The Declarant may transfer or lease Vacation Getaways and make Vacation Getaways available for use by guests selected in its discretion. Residents of the Vacation Getaways shall have a non-exclusive easement for use, access, and enjoyment in and to the Common Area, including but not limited to any recreational facilities within the Common Area. The Board shall assign activity or use privilege cards to the Declarant on behalf of all owners of Vacation Getaways for the purpose of exercising such easement. Vacation Getaways shall remain Vacation Getaways until the Declarant otherwise provides in written notice to the owner of such Vacation Getaway and to the Association.

13.8 Equal Treatment. During the Development Period, the Association shall not, without the prior written consent of the Declarant, adopt any policy, rule or procedure that:

(a) Limits the access of the Declarant, its successors, assigns and/or affiliates or their personnel and/or guests, including visitors, to the Common Areas;

(b) Limits or prevents the Declarant, its successors, assigns and/or affiliates or their personnel from advertising, marketing or using the Association or its Common Areas in promotional materials;

(c) Limits or prevents purchasers of new residential housing constructed by the Declarant, any Builder, their successors, assigns and/or affiliates in Sun City Peachtree from becoming members of the Association or enjoying full use of its Common Areas, subject to the membership provisions of this Declaration and the By-Laws;

(d) Impacts the ability of the Declarant, its successors, assigns and/or affiliates, to carry out to completion its development plans and related construction activities for Sun City Peachtree, as such plans are expressed in the Master Plan, as such may be amended and updated from time to time. Policies, rules or procedures affecting the provisions of existing easements established by the Declarant and limiting the establishment by the Declarant of easements necessary to complete Sun City Peachtree shall be expressly included in this provision. Easements that may be established by the Declarant shall include but shall not be limited to easements for development, construction and landscaping activities and utilities; or

(e) Impacts the ability of the Declarant, its successors, assigns and/or affiliates to develop and conduct customer service programs and activities in a customary and reasonable manner.

The Association shall not exercise its authority over the Common Areas (including, but not limited to, any gated entrances and other means of access to the Properties or the Annexable Property) to interfere with the rights of the Declarant set forth in this Declaration or to impede access to any portion of the Properties or the Annexable Property over the streets and other Common Areas within the Properties.

13.9 Right to Use Common Area for Special Events. During the Development Period, the Declarant shall have the right to use all Common Area, including recreational facilities, for up to twelve (12) days each year to sponsor special events for charitable, philanthropic, political, or marketing purposes as determined by the Declarant in its sole discretion. Any event described in this **Section 13.9** shall be subject to the following conditions:

(a) the availability of the facilities at the time a request is submitted to the Association;

(b) the Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any loss or damage resulting from the special event; and

(c) the Declarant shall return the facilities and personal property owned by the Association and used in conjunction with the special event to the Association in the same condition as existed prior to the special events.

The Declarant shall have the right to assign the rights contained in this **Section 13.9** to charitable organizations or foundations selected by the Declarant. The Declarant's right to use the Common Area for special events shall be enforceable by injunction, by any other remedy in law or equity, and by the terms of this Declaration.

13.10 Sales By Declarant. Notwithstanding the restriction set forth in **Section 2.6**, Declarant reserves the right to sell Lots to Persons between the ages of 50 and 55, inclusive years of age; provided, such sales shall not affect Sun City Peachtree's compliance with all applicable state and federal laws under which the Properties may be developed and operated as an age-restricted community.

13.11 Activity Cards for Marketing or Promotion. During the Development Period, the Declarant may, in its sole discretion, issue Activity Cards to persons or entities as part of its sales, marketing, or promotional activities.

ARTICLE XIV
DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

14.1 Prerequisites to Actions Against Declarant. Prior to any Owner or the Association filing a civil action, undertaking any action in accordance with **Section 14.4**, or retaining an expert for any such action against Declarant or any Builder or subcontractor of any portion of Sun City Peachtree, the Owner or the Board, as appropriate, shall notify and meet with the Members to discuss the alleged problem or deficiency. Moreover, prior to taking any action, the potential adverse party shall be notified of the alleged problem or deficiency and provided reasonable opportunity to cure the problem.

14.2 Consensus for Association Litigation. Except as provided in this Section after the Declarant Control Period, the Association shall not commence a judicial or administrative proceeding without first providing at least twenty-one (21) days written notice to its Members of a special meeting to consider such proposed action. Taking such action shall require the vote of Owners of seventy-five percent (75%) of the total number of Lots in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the collection of assessments and the foreclosure of liens); (b) counterclaims brought by the Association in proceedings instituted against it; or (c) actions to protect the health, safety, and welfare of the Members. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

14.3 Alternative Method for Resolving Disputes. Declarant, the Association, and their respective officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article

(collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances, or disputes described in **Section 14.2** (Claims") shall be resolved using the procedures set forth in **Section 14.4** in lieu of filing suit in any court.

14.4 Claims. Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents, or the rights, obligations, and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of **Section 14.5**.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not constitute a Claim and shall not be subject to the provisions of **Section 14.5**:

(a) any suit, action or proceeding by the Association against any Bound Party to collect charges payable pursuant to the provisions of **Article VIII**, or to enforce the provisions thereof;

(b) any suit, action or proceeding by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of **Article VII** and **Article XIII**;

(c) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(d) any suit by an Owner concerning the aesthetic judgment of the Modifications Committee, the Association, or Declarant pursuant to their authority and powers under **Article IX**;

(e) any suit in which any indispensable party is not a Bound Party;

(f) any internal administrative process for the possible imposition of fines or suspension of rights, services or privileges as provided under **Section 4.3**; and

(g) any suit as to which any applicable statute of limitations would expire within ninety (90) days of giving the Notice required by **Section 14.5(a)**, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in **Section 14.5**.

14.5 Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the Notice), stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and Respondents role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) Claimant"s proposed remedy; and

(iv) that Claimant will meet with Respondent to discuss good faith ways to resolve the Claim.

(b) Negotiation and Mediation. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

If the Parties do not resolve the Claim within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of an independent agency providing dispute resolution services in the Charlotte Metropolitan, North Carolina area.

If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a written notice of termination of the mediation proceedings. The notice of termination of mediation shall set forth that the Parties are at an impasse and the date that mediation was terminated.

14.6 Allocation of Costs of Resolving Claims. Each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator.

14.7 Enforcement of Resolution. After resolution of any Claim through negotiation or mediation, if any Party fails to abide by the terms of any agreement, then any other Party may

file suit or initiate administrative proceedings to enforce such agreement without the need to comply with the procedures set forth in **Section 14.5** or **Section 14.2**. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one (1) non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

14.8 Attorneys' Fees. In the event of an action or proceeding instituted to enforce any of the obligations and provisions contained in the Governing Documents, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs, including administrative and lien fees, of such action or proceeding. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs awarded against an Owner shall also be a Benefitted Assessment under **Section 8.8(c)** with respect to that Owner's Lot(s).

ARTICLE XV
GOLF COURSE AND PRIVATE AMENITIES

15.1 Right to Use. Access to and use of the Private Amenities are strictly subject to the rules and procedures of the Private Amenities, and no Person automatically gains any right to enter or to use those facilities by virtue of membership in the Association, ownership of a Lot, or occupancy of a Dwelling Unit.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether, except as may be provided in a restrictive covenant recorded against the Private Amenity for the benefit of Owners hereunder.

The ownership or operational duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent entity, (b) conversions of the membership structure to an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Private Amenity, or (c) the conveyance of a Private Amenity to one (1) or more subsidiaries, affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, or any owner shall be required to effectuate such a transfer or conversion.

Except as expressly provided herein, no representations or warranties, either written or oral, have been or are made by the Declarant or any other Person with regard to the nature or size of improvements to, or the continuing ownership or operation of the Private Amenities. No purported representation or warranty, written or oral, in conflict with this Section shall be effective without an amendment to this Declaration executed or joined into by the Declarant or the owner(s) of the Private Amenities which are the subject thereof.

15.2 Golf Course Generally. The Golf Course Property is not part of the Properties and is not subject to any of the liens, charges, covenants or restrictions set forth in this Declaration. (Because the Golf Course Property is not part of the Properties, the Golf Course Owner shall not be a Member of the Association and shall not have the right to vote with respect to any Association matters.)

By the terms of the Golf Course Deed, the Golf Course Property will be restricted to use as a golf course and related facilities, and this restriction may be enforced by any person who shall own any Lot. Except for the use restriction on the Golf Course Property set forth in the Golf Course Deed, there are no rights or interests in or to the Golf Course that are appurtenant to the ownership of any Lot, and there are no limitations or restrictions on the ownership, use or operation of the Golf Course Property, and no Person shall have any right to enter upon any portion of the Golf Course Property by virtue of his ownership of any Lot. The ownership of any Lot shall not be deemed to include any right in or claim to any part of the Golf Course Property or the Golf Course.

15.3 Easements Benefiting the Golf Course Property.

(a) Each Golf Lot and all portions of the Common Area which are contiguous to or adjacent to the Golf Course Property shall be subject to an easement benefiting the Golf Course Property for the entry onto such Golf Lot or such portion of the Common Area of golf balls which are unintentionally hit onto such Golf Lot or such portion of the Common Area in the normal course of play by Golfers playing golf on the Golf Course and for the retrieval of such golf balls from such Golf Lot or such portion of the Common Area. Such easement right for the retrieval of golf balls shall be limited to the entry on foot by persons seeking to find and to pick up any such golf balls and to carry such golf ball off the Golf Lot or such portion of the Common Area. In no event shall the easement right provided for in this paragraph (a) include the right for a golf cart or any similar mechanical device to be brought onto any Golf Lot or any portion of the Common Area or for any Golfer to hit any golf ball while on said Lot or such portion of the Common Area. The fact that any person hitting a golf ball onto any Golf Lot or such portion of the Common Area or entering any Golf Lot or such portion of the Common Area for the purpose of retrieving any golf ball, shall do so pursuant to an exercise of the easement rights provided for in this paragraph (a) shall in no event be deemed to relieve such person from any liability that such person may otherwise have under normal legal principles for damage to persons or property caused by such person. However, in no event shall the Golf Course Owner have any liability for any such damage unless the Golf Course Owner, or any officer, director, member, agent or employee of the Golf Course Owner, in his individual capacity, shall have legal liability for the occurrence of such damage, it being the intent hereof that the Golf Course Owner shall not have any liability for any tortuous acts of any of the aforesaid individuals.

(b) Each Lot and the Common Area shall be subject to a perpetual easement for the installation, construction, repair, maintenance and use of all lines, pipes and conduits that are required for the provision of all utility services to the Golf Course Property. Said easement shall include the right to enter upon the applicable Lot and Common Area to access said line, pipe or conduit, as the case may be.

(c) Each Golf Lot and each portion of the Common Area which is contiguous to or adjacent to the Golf Course Property shall be subject to an easement benefiting the Golf Course Property for the overspray of water (which may contain chemicals and pesticides) from irrigation systems installed on the Golf Course Property. Said overspray may consist of "grey water" produced from Effluent.

(d) All portions of each Golf Lot, and all portions of the Common Area, which are located within the Golf Course Buffer shall be subject to the following easements benefiting the Golf Course Property:

(i) An Easement for the preservation of any graded slopes developed in connection with the development of the Golf Course;

(ii) An easement for the maintenance of the Golf Course Buffer. The easement right set forth in this paragraph (ii) shall include the right of the Golf Course Owner to maintain the Golf Course Buffer in such a manner as said Golf Course Owner shall determine to provide for a well maintained Golf Course. Without limiting the generality of the foregoing, the Golf Course Owner shall have the right through the exercise of the easement herein set forth to permit any Golf Course Buffer to remain undisturbed and/or to mow, prune and remove any and all vegetation from said Golf Course Buffer, and to plant grass thereon, all as determined by the Golf Course Owner. It shall be the responsibility of the owner of any Golf Lot to refrain from making any change to the portion of said Golf Lot consisting of the Golf Course Buffer which would interfere with or impede the exercise by the Golf Course Owner of the easement right set forth in this paragraph (ii). In no event shall the owner of any Golf Lot place any structure of any kind or nature (including, without limitation, any swimming pool, basketball court, satellite dish, pet feeder or arbor, either permanently or temporarily, within the portion of such Golf Lot consisting of the Golf Course Buffer, or plant any trees, shrubs, hedges or other vegetation from the same for any purpose, including, without limitation, the purpose of preserving, restoring or improving the view of the Golf Course from any Golf Lot, without the prior written consent of the Golf Course Owner. By acceptance of his conveyance of title to his Lot, the owner of each Golf Lot thereby acknowledges and agrees that, on account of the manner in which the Golf Course Owner may elect to maintain the portion of said owner's Lot which is located within the Golf Course Buffer, the Golf Course Owner may obscure, interfere with or entirely eliminate the sight line between said Lot and the Golf Course, and unless the Golf Course Owner shall agree otherwise in writing, said Lot Owner shall have no right to remove, prune or trim any tree, shrub, hedge or other vegetation located within the Golf Course Buffer for the purpose of restoring the same.

(e) Each Golf Lot and the Common Area shall be subject to an easement benefiting the Golf Course Property for the installation, construction, maintenance, repair and use of a paved golf cart path, up to eight (8) feet in width, connecting together the various parts of the Golf Course. The owner of any Golf Lot on which a golf cart path shall have been so installed and constructed shall refrain from placing any item, and from planting any vegetation, on or within such golf cart path. The Association shall refrain from placing any item, and from planting any vegetation, on or within any segment of golf path that is located on the Common Area. The Golf Course Owner shall be responsible for, and neither the Association or the Owner

of any Golf Lot on which any segment of the said golf cart path shall be located shall have any responsibility for, the repair and maintenance of any such segment of said golf cart path.

The exercise of the easement rights set forth in this paragraph (e) shall be conditioned upon the Golf Course Owner indemnifying and holding harmless the Association and the Owner of any Lot on which such golf cart path is located from and against any liability for any damage or injury to persons or property occurring on such golf cart path.

15.4 Assumption of Risk and Indemnification. Each Owner, by its purchase of a Lot, hereby expressly assumes the risk of noise, personal injury or property damage caused by maintenance and operation of the Golf Course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around sunrise or sunset), (b) noise caused by Golfers, (c) use of pesticides, herbicides and fertilizers, (d) use of Effluent in the irrigation of the Golf Course, (e) reduction in privacy caused by constant golf traffic on the Golf Course or the removal or pruning of shrubbery or trees on the Golf Course, (f) errant golf balls and golf clubs, and (g) design or redesign of the Golf Course.

Each such Owner agrees that neither Declarant, the Association nor any of Declarant's affiliates or agents shall be liable to any Owner or any other person claiming any loss of damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the Golf Course, its maintenance, use or operation including, without limitation, any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents or the Association. The Owner hereby agrees to indemnify and hold harmless Declarant, Declarant's affiliates and agents, and the Association against any and all claims by Owner's visitors, tenants and others upon such Owner's Lot or the Properties at the request of Owner or with Owner's consent.

15.5 View Impairment. None of the Declarant, the Association, or the owner or operator of any Private Amenity guarantees or represents that any view over and across any Private Amenity from Dwelling Units will be preserved without impairment. No provision of this Declaration shall be deemed to create an obligation of the Association, the owner of any Private Amenity, nor the Declarant to prune or thin trees or other landscaping except as provided in **Article V**. The owner of any Private Amenity may, in its sole and absolute discretion, add trees and other landscaping to such Private Amenities from time to time. In addition, the owner of the Golf Course may, in its sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways and greens on the Golf Course from time to time. Any such additions or changes to Private Amenities may diminish or obstruct any view from the Dwelling Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

15.6 Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenities, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefitting any Private Amenity, may be made without the written approval of the owner of the Private Amenities

affected thereby. The foregoing shall not apply, however, to amendments made by the Declarant.

ARTICLE XVI
CONDOMINIUM AND OTHER HOMEOWNERS ASSOCIATIONS

16.1 In General. Declarant may determine, in its sole discretion, that it is necessary or appropriate to have a portion of the Properties administered by a condominium or non-condominium homeowners association which is separate and apart from the Association hereunder. For example, if the Declarant desires to subject a portion of the Properties to the Georgia Condominium Act, the Declarant will record a condominium declaration with respect to such portion of the Properties which condominium declaration will provide for the creation of a not-for-profit corporation to administer and maintain the condominium property. Similarly, the Declarant may record a non-condominium declaration with respect to a portion of the Properties which will provide for the creation of a not-for-profit corporation to administer and maintain such portions of the Properties. An example of a situation where the Declarant may create a separate homeowners association to administer a portion of the Properties is where the homes which are made part of the Properties will require services which are quantitatively or qualitatively different than those which will be furnished by the Association hereunder with respect to the Common Area or Limited Common Area. For purposes hereof, any separate declaration which is recorded against a portion of the Properties shall be referred to herein as a "Local Area Declaration" and the association which administers the real estate which is subject to the Local Area Declaration shall be referred to herein as a "Local Area Association."

16.2 Relationship of the Association and the Local Area Associations. It is intended that each Local Area Association shall operate independent of the Association hereunder. Thus, to the extent that a Local Area Association is granted the power and authority to maintain Lots or portions of the Properties which serve Lots, the Association hereunder shall not be obligated to maintain such areas or furnish such services. Otherwise the provisions of this Declaration shall remain fully applicable to and enforceable against any portion of the Properties which is also subject to a Local Area Declaration, and each Owner shall remain a member of this Association as well as the Local Area Association. Nothing herein shall be deemed to restrict or limit the right of the Declarant or the MC to approve Regulated Work as provided in **Article IX**.

ARTICLE XVII
GENERAL PROVISIONS

17.1 Term. Unless otherwise provided by Georgia law, in which case such law shall control, this Declaration shall run with the land and have perpetual duration. This Declaration may be terminated only by an instrument signed by Owners of at least ninety percent (90%) of the total Lots within the Properties and, during the Development Period, the Declarant, which instrument is recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

17.2 Amendment. During the Declarant Control Period, Declarant may unilaterally amend this Declaration. After the Declarant Control Period, other than amendments which may be executed unilaterally by the Declarant during the Development Period in the exercise of its Special Declarant Rights, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of sixty-seven percent (67%) of the total vote in the Association, and the consent of the Declarant during the Development Period.

After the Declarant Control Period, but during the Development Period, the Declarant may unilaterally amend this Declaration if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Fannie Mae or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots; (iv) to enable any reputable private insurance company to insure mortgage loans on the Lots; (v) to satisfy the requirements of any local, state or federal governmental agency for the development, marketing, and sale of Lots or (vi) to correct errors, or resolve inconsistencies or ambiguities in this Declaration or any Exhibit hereto or any Supplemental Declaration.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Amendments to this Declaration shall be prepared, executed, recorded and certified by the President of the Association.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant during the Development Period.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. The affirmative vote or written consent of any one (1) Owner of a Lot shall be deemed sufficient to constitute approval unless another Owner of the same Lot objects or dissents in writing prior to the deadline established for votes to be cast or consents to be obtained.

Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within one (1) year of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

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

17.4 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants and restrictions provided for in any Supplemental Declaration, and the Association may, but shall not be required to, enforce such additional covenants and restrictions. Nothing herein shall preclude any Supplemental Declaration or other recorded covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

17.5 Use of the Words "Sun City Peachtree." No Person shall use the words Sun City Peachtree or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the terms "Sun City Peachtree" in printed or promotional matter where such term is used solely to specify that particular property is located within Sun City Peachtree and the Association shall be entitled to use the words Sun City Peachtree in its name.

17.6 Del Webb Marks. Any use by the Association of names, marks or symbols of Pulte Homes, Inc., Del Webb Corporation or any of their affiliates (collectively "Del Webb Marks") shall inure to the benefit of Del Webb Corporation and shall be subject to Del Webb Corporation's periodic review for quality control. The Association shall enter into license agreements with Del Webb Corporation, terminable with or without cause and in a form specified by Del Webb Corporation in its sole discretion, with respect to permissive use of certain Del Webb Marks. The Association shall not use any Del Webb Mark without Del Webb Corporation's prior written consent.

17.7 Compliance. Every Owner and Resident of any Dwelling Unit shall comply with this Declaration, the By-Laws, and the rules of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, administrative imposition of fines and suspension of services or privileges provided in **Section 4.3** or for any other remedy available at law or in equity, by the Association or, in a proper case, by any aggrieved Lot Owner(s), subject, however, to the provisions of **Article XIV**.

17.8 Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such written notice is received by the Board, notwithstanding the transfer of title. The transferor shall also provide the transferee with a copy of this Declaration and any Supplemental or Local Area Declaration applicable to the Lot transferred before the sale is closed or the transfer finalized.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 1st day of November, 2007.

Signed, sealed and delivered in the presence of:

Unofficial Witness

Notary Public

My Commission Expires:

MARY E. WATSON
NOTARY PUBLIC
PAULDING COUNTY
STATE OF GEORGIA
My Commission Expires July 27, 2010

Exact Date of Execution by Notary Public:

[AFFIX NOTARIAL SEAL]

DECLARANT:

PULTE HOME CORPORATION
a Michigan Corporation

By:

David Vitek, President,
South Georgia Division

Signed, sealed and delivered in the presence of:

Unofficial Witness

Notary Public

My Commission Expires:

MARY E. WATSON
NOTARY PUBLIC
PAULDING COUNTY
STATE OF GEORGIA
My Commission Expires July 27, 2010

Exact Date of Execution by Notary Public:

NOV. 5, 2007

[AFFIX NOTARIAL SEAL]

ASSOCIATION:

SUN CITY PEACHTREE COMMUNITY ASSOCIATION, INC.

By:

Name: David Vitek
Title: President

EXHIBIT A
LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 185 of the 3rd District of Spalding County, Georgia, being Lots 7, 13-19, Inclusive, 32 and 33, as shown on that certain plat entitled A Final Plat Prepared for Sun City Peachtree **Pod 1A**, prepared by Charles Lee Iner, G.R.L.S. No. 2966 of Point to Point Land Surveyors, dated May 25, 2007, last revised June 6, 2007, recorded August 8, 2007, in Plat Book 25, Page 502, Spalding County, Georgia Records, which plat is incorporated herein by reference thereto.

TOGETHER WITH:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 185 of the 3rd District of Spalding County, Georgia, being Lots 2, 13-35, inclusive, 37-42, 51 and 52, as shown on that certain plat entitled A Final Plat Prepared for Sun City Peachtree **Pod 2**, prepared by Charles Lee Iner, G.R.L.S. No. 2966 of Point to Point Land Surveyors, dated May 25, 2007, last revised June 6, 2007, recorded August 8, 2007, in Plat Book 25, Page 506, aforesaid records, which plat is incorporated herein by reference thereto.

TOGETHER WITH:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 185 of the 3rd District of Spalding County, Georgia, being Lots 1-9, inclusive, 16, 17, 19, 37, 38, 48 and 51 as shown on that certain plat entitled A Final Plat Prepared for Sun City Peachtree **Pod 3**, prepared by Charles Lee Iner, G.R.L.S. No. 2966 of Point to Point Land Surveyors, dated May 25, 2007, last revised June 6, 2007, recorded August 8, 2007, in Plat Book 25, Page 511, aforesaid records, which plat is incorporated herein by reference thereto.

TOGETHER WITH:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 185 of the 3rd District of Spalding County, Georgia, being Lots 1-4, Inclusive, and 34-77, Inclusive, as shown on that certain plat entitled A Final Plat Prepared for Sun City Peachtree **Pod 6**, prepared by Charles Lee Iner, G.R.L.S. No. 2966 of Point to Point Land Surveyors, dated April 27, 2007, last revised June 6, 2007, recorded August 8, 2007, in Plat Book 25, Page 516, aforesaid records, which plat is incorporated herein by reference thereto.

After recording, please return to:
Michael E. Leavey
Dorough & Dorough, LLC
160 Clairemont Avenue, Suite 650
Decatur, Georgia 30030
(404) 687-9977

CROSS REFERENCE: Deed Book: 3179
Page: 171

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SUN CITY PEACHTREE

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SUN CITY PEACHTREE (hereinafter referred to as the "Amendment") is made this 22 day of November, 2011 by **PULTE HOME CORPORATION**, a Michigan corporation (hereinafter referred to as "Declarant").

W I T N E S S E T H

WHEREAS, Pulte Home Corporation, a Michigan corporation, as Declarant, executed that certain Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree which was recorded November 6, 2007 in Deed Book 3179, Page 171, *et seq.*, Spalding County, Georgia land records (hereinafter as supplemented and/or amended from time to time, referred to as the "Declaration"); and

WHEREAS, pursuant to Article XVII, Section 17.2 of the Declaration, during the Declarant Control Period, Declarant may unilaterally amend the Declaration; and

WHEREAS, Declarant desires to amend the Declaration as herein provided; and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the President of the Association, which sworn statement states that this Amendment was adopted and became effective in accordance with the provisions of the Declaration;

NOW THEREFORE, the undersigned hereby adopt this First Amendment to the Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree, hereby declaring that all of the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, amended as follows:

1.

Article X, Section 10.2 of the Declaration, entitled "Vehicles and Parking," is hereby amended by deleting the same in its entirety and replacing it with a new Article X, Section 10.2 to read as follows:

10.2 Vehicles and Parking. No automobile, truck, commercial vehicle, recreational vehicle, motorcycle, other motorized vehicle or cart, boat, trailer, or other wheeled vehicle or equipment, whether motorized or not motorized, shall at any time be parked or stored on any portion of the Properties other than in a garage. Garage doors shall be kept closed at all times, except during times of ingress and egress from the garage. Garages shall be used primarily for the parking of vehicles and not for storage or other purposes. For purposes of this Declaration, "commercial vehicle" shall include any vehicle bearing any commercial or business markings or which is used, in whole or in part, for any commercial or business purpose, regardless of its markings or configuration. Notwithstanding the foregoing, vehicles may be parked or placed on the paved driveway of a Lot as follows:

(a) If the Owner or lawful occupants of the Dwelling Unit have two private, personal, non-commercial vehicles and a golf cart or other approved electric powered vehicle for neighborhood transportation ("NEV"), or if the Owner or lawful occupants of the Dwelling Unit have three private, personal, non-commercial vehicles, one of the passenger vehicles other than the NEV, if any, may be parked on the driveway when the other two vehicles (or the NEV and one other vehicle, as the case may be) are in the garage;

(b) Automobiles, trucks, commercial vehicles, recreational vehicles boats, watercraft, trailers or other wheeled vehicles may be parked on driveways for up to a total of 48 hours during any consecutive seven (7) days, or as expressly and specifically permitted by the Board in writing or in rules and regulations adopted by the Board.

(c) All vehicles, personal property, or equipment parked or left on driveways shall at all times be operable and properly licensed and inspected as by law required. The Board may request and the Owner shall provide evidence or verification of operability or proper license or inspection, from time to time.

The Board shall have the authority to adopt additional rules and regulations regarding the presence and use of vehicles on any portion of the Properties, including, without limitation, parking or periods during which Dwelling Unit garage doors must be closed.

2.

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

3.

This First Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Spalding County, Georgia and shall be enforceable against current Owners of Lots in the Properties.

4.

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

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has caused this First Amendment to the Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree to be executed under seal the day and year first above written.

DECLARANT: **PULTE HOME CORPORATION**, a Michigan corporation

By: _____

Name: Ted Turner

Title: VP Land Development

[AFFIX ASSOCIATION SEAL]

Signed, sealed and delivered
in the presence of

_____
Witness

_____
Notary Public

[AFFIX NOTARY SEAL]

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EXHIBIT "A"
Sworn Statement Of President Of
Sun City Peachtree Community Association, Inc.

STATE OF GEORGIA
COUNTY OF SPALDING

Re: Sun City Peachtree Community Association, Inc.

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

1. Deponent is the President of Sun City Peachtree Community Association, Inc.

2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein of his or her own personal knowledge.

3. The Declarant Control Period has not expired or otherwise been terminated and foregoing First Amendment to the Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree was adopted in accordance with the provisions of the Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree.

4. Deponent makes this Affidavit pursuant to Article XVII of the Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree and Official Code of Georgia Annotated Section 44-2-20.

This the 22 day of November, 2011.

Sworn to and subscribed before me
this 22 day of November, 2011:

Notary Public

Signed:

Print Name: Matthew Phillipoff

[AFFIX NOTARY SEAL]

LESLIE A DEKLE
NOTARY PUBLIC
FORSYTH COUNTY, GEORGIA
MY COMMISSION EXPIRES
JUNE 16, 2015

eFiled & eRecorded
DATE: 11/27/2019
TIME: 11:58 AM
DEED BOOK: 04494
PAGE: 00301 - 00305
RECORDING FEES: $20.00
PARTICIPANT ID: 0283063948
CLERK: Debbie L. Brooks
Spalding County, GA

Upon recording return to:
LDV
Coulter & Sierra, LLC
2800 Century Parkway, Suite 275
Atlanta, Georgia 30345
1053.01

Cross Reference Book: 3179
Page: 171

SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SUN CITY PEACHTREE

THIS SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SUN CITY PEACHTREE is made this 25 day of November, 2019 by Pulte Home Company, LLC, a Michigan limited liability company, an entity legal converted from Pulte Home Corporation, a Michigan corporation, doing business through and under its "Del Webb" brand (the "Declarant").

W I T N E S S E T H

WHEREAS, Declarant executed that certain Declaration of Covenants, Conditions and Restrictions for Sun City Peachtree, which was recorded on November 6, 2007 at Deed Book 3179, Page 171, *et seq.*, in the real property records of the Clerk of the Superior Court of Spalding County, Georgia; as amended by that certain First Amendment to Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree, recorded on November 22, 2011 at Deed Book 3589, Page 49, *et seq.*, in the real property records of the Clerk of the Superior Court of Spalding County, Georgia (hereinafter as supplemented and/or amended from time to time collectively referred to as the "Declaration"); and

WHEREAS, pursuant to Article XVII, Section 17.2 of the Declaration, during the Declarant Control Period (as such term is defined in the Declaration) the Declarant may unilaterally amend the Declaration; and

WHEREAS, the Declarant desires to amend the Declaration as provide herein; and

WHEREAS, the Declarant Control Period has not expired or been terminated; and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the President of the Association, which sworn statement states this Amendment was adopted and became effective in accordance with the provisions of the Declaration.

eFiled & eRecorded
DATE: 11/27/2019
TIME: 11:58 AM
DEED BOOK: 04494
PAGE: 00302

NOW, THEREFORE, pursuant to the powers vested in the Declarant under the Declaration, the undersigned hereby adopt this Second Amendment to the Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree, hereby declaring that all of the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, amended as follows:

1.

Article VIII, Section 8.16 of the Declaration entitled "New Member Fee." is hereby amended by deleting the existing Section 8.16 of the Declaration in its entirety and replacing it as follows:

8.16. New Member Fee.

NOTE WELL: This section provides for the collection of a New Member Fee which is payable at the closing of each and every transfer of title to a Lot, unless the transaction is specifically exempted under Subsection (d). While expressly payable by the grantor, the Association's lien securing payment of the New Member Fee shall survive the passage and transfer of title in the event the fee is not collected and paid to the Association at closing.

(a) Authority. As an additional funding source in addition to the administrative or transfer fee collected to cover administrative costs of membership transfer; the Association shall collect a New Member Fee upon each and every transfer of title to a Lot, other than exempt transfers as set forth herein. The New Member Fee shall be charged to and payable by the grantor of the Lot at the closing of the transfer, and shall be secured by the Association's lien for assessments, which lien shall not be affected by the transfer of title. Each Owner transferring a Lot shall notify the Association's secretary or designee at least seven days prior to the scheduled closing. Such notice shall include the name of the buyer, the date of title transfer, and other information the Association may reasonably require.

(b) Fee Limit. The fee shall be an amount set by the Board by resolution, but not to exceed the then-current Base Assessment, for the fiscal year in which the conveyance of such Lot shall take place.

(c) Purpose. New Member Fees shall be used for purposes which the Association Board deems beneficial to meet the general operating needs of the Association. By way of example and not limitation, New Member Fees may be used to assist the Association or one or more tax-exempt entities in funding operating and maintenance costs for recreational facilities, common areas, open space preservation, and all other funding needs for operating the Association.

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DATE: 11/27/2019
TIME: 11:58 AM
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(d) Exempt Transfers. Notwithstanding the above, no New Member Fee shall be levied upon transfer of title to property:

i. By or to the Declarant unless it is a conveyance by Declarant to an Owner of a Dwelling Unit to be used for residential purposes;

ii. By a co-owner to any Person who was a co-owner immediately prior to such transfer;

iii. To the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;

iv. To an entity wholly owned by the grantor or to a family trust created by the grantor for the direct benefit of the grantor and his or her spouse and/or heirs at law; provided, upon any subsequent transfer of an ownership interest in such entity, the New Member Fee shall become due;

v. To an institutional lender as security for the performance of an obligation pursuant to a Mortgage; or

vi. To or by the Association.

2.

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

3.

This Amendment shall be effective only upon being recorded in the records of the Clerk of the Superior Court of Spalding County, Georgia and shall be enforceable against current Owners of Lots in the Community.

4.

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

[SIGNATURES ON THE FOLLOWING PAGES]

eFiled & eRecorded
DATE: 11/27/2019
TIME: 11:58 AM
DEED BOOK: 04494
PAGE: 00304

IN WITNESS WHEREOF, the undersigned officer of the Declarant has executed this Second Amendment on the date and year first written above.

DECLARANT:
PULTE HOME COMPANY, LLC,
a Michigan limited liability company,

By: _____

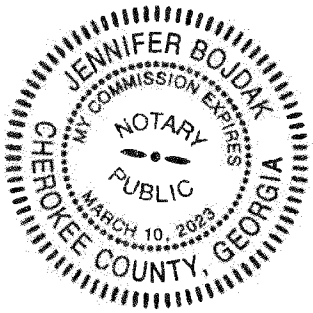
Printed Name: _____

Title: VPE

Signed, sealed, and delivered in the presence of:

_____
Witness

_____
Notary Public
[NOTARY SEAL]



eFiled & eRecorded
DATE: 11/27/2019
TIME: 11:58 AM
DEED BOOK: 04494
PAGE: 00305

Exhibit "A"
Sworn Statement of President Of
Sun City Peachtree Community Association, Inc.

STATE OF GEORGIA
COUNTY OF FULTON

Re: Sun City Peachtree Community Association, Inc.

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

1. Deponent is the President of Sun City Peachtree Community Association, Inc.

2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein of his or her own personal knowledge.

3. The Declarant Control Period has not expired or otherwise been terminated and foregoing Second Amendment to the Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree was adopted in accordance with the provisions of the Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree.

4. Deponent makes this Affidavit pursuant to the Declaration of Covenants, Conditions, and Restrictions for Sun City Peachtree and Official Code of Georgia Annotated Section 44-2-20.

This the 26th day of November, 2019

Sworn to and subscribed before me
This 26th day of November, 2019:

Jenny Boudak
Notary Public

Signed: _____

Print Name: Jason Garrett

[AFFIX NOTARY SEAL]