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3330 Cumberland Blvd  
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Atlanta, GA 30339  
Attention: Ashley Miller Lanier

STATE OF GEORGIA  
COUNTY OF GILMER

## **DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS FOR CREEKSIDE CROSSING**

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THIS INSTRUMENT ESTABLISHES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION BUT DOES NOT, AT THIS TIME, SUBMIT THIS DEVELOPMENT TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. §44-3-220, *et seq.*

PREPARED BY:

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**GADDIS & LANIER, LLC**  
**Your Neighborhood Attorneys**

Ashley Miller Lanier, Esquire  
3330 Cumberland Blvd  
Suite 500  
Atlanta, GA 30339  
[www.gaddislanier.com](http://www.gaddislanier.com)

THIS DECLARATION is made on the date set forth below by Wildcat Timber II, LLC (hereinafter referred to as "Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of that certain real property located in Gilmer County, Georgia and is described in Exhibit "A" attached hereto and incorporated herein by this reference;

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereto, including the improvements thereof, to the provisions of this Declaration; and

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" of this Declaration, including the improvements located and to be located thereon, is hereby submitted and made subject to the provisions of this Declaration. By virtue of the recording of this Declaration, said property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the provisions of the covenants, conditions, restrictions, easements, assessments, and liens set forth and/or described in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all Persons having any right, title or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors in title and assigns, and shall be for the benefit of all owners of the property subject to this Declaration.

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Exhibit "A" – Property submitted to this Declaration

Exhibit "B" – Bylaws of the Creekside Crossing Community Association, Inc.

Exhibit "C" – Additional Property

**1. NAME**

The name of the Community is Creekside Crossing Subdivision, which is a residential homeowners owners' development. This property is not submitted to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended, but may be at a later date by amendment of the Board of Directors as set forth herein.

**2. DEFINITIONS**

Unless the context otherwise requires, capitalized terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as set forth in this Paragraph 2. Otherwise, the terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Georgia Nonprofit Corporation Code.

A. Additional Property shall mean all that real property set forth in Exhibit "C" which may be submitted to the Declaration by the Declarant by recording a Supplemental Declaration as set forth in Paragraph 3B below.

B. Area of Common Responsibility shall mean all areas of the Community that the Association is obligated to maintain as provided for herein, which shall include the Common Property, if any, and shall also include, but limited by, the following: the entry features for the Community, any and all entrance gates throughout the Community, all storm water detention/retention ponds and facilities as specified in this Declaration, all street, street medians and street islands, any fence or wall erected by the Declarant, and any green space and/or open space.

C. Architectural Control Committee or ACC mean the committee established to exercise the architectural review powers set forth herein, which shall be the Declarant during the Declarant Control Period and later the Board of Directors of the Association unless the Board appoints a separate Architectural Control Committee.

D. Articles of Incorporation or Articles means the Articles of Incorporation of Creekside Crossing Community Association, Inc., filed with the Secretary of State of the State of Georgia, and incorporated herein by this reference as may be amended from time to time.

E. Association means Creekside Crossing Community Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

F. Association Legal Documents means this Declaration and all exhibits hereto, the Bylaws, the Articles of Incorporation, the plats and all rules and regulations and architectural guidelines for the Association, all as may be supplemented or amended.

G. Board or Board of Directors means the appointed or elected body responsible for management and operation of the Association under the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, *et seq.*

H. Bylaws means the Bylaws of Creekside Crossing Community Association, Inc., attached to this Declaration as Exhibit "B" and incorporated herein by this reference as the same may be amended from time to time.

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

J. Common Expenses means the expenses incurred or anticipated to be incurred for the general benefit of all Lots, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Property.

K. Community means that real estate which is submitted this Declaration and as described in Exhibit "A" attached hereto and incorporated herein by reference, and any such additions thereto as may be made by Supplementary Declaration as provided herein.

L. Community-Wide Standard means the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Declarant, the Board of Directors and/or the Architectural Control Committee.

M. Declarant shall mean Wildcat Timber II, LLC, its respective successors-in-title, and assigns, provided that such successors and/or assigns are designated in writing by the Declarant as its successor-in-title and/or assign of the rights of Declarant set forth herein. The expiration of the Declarant Control Period shall not terminate or alter the status of the above-referenced entity and its successor-in-title and/or assign, as Declarant hereunder, or divest it of other rights specifically reserved to Declarant herein.

N. Declarant Control Period shall mean the period of time when the Declarant has the unilateral right to take, approve or consent to actions under this Declaration, the Articles of Incorporation and the Bylaws which shall be in full force and effect until the earlier of: (i) the date that the Declarant no longer owns any property in the Community and the date that the Declarant no longer has the right to unilaterally annex additional property to the Declaration; or (ii) the date of recording by Declarant in the Gilmer County land records, a written instrument terminating the Declarant Control Period.

O. Declaration means this Declaration of Protective Covenants, Conditions, Restrictions and Easements for Creekside Crossing.

P. Director means a member of the Association's Board of Directors.

Q. Domestic Partner means any adult who cohabitates with an Owner, and who has been designated as the Owner's Domestic Partner in a written statement, signed by the Owner and filed with the Association's Secretary. A person shall no longer be a Domestic Partner upon the Secretary's receipt of a written termination notice, signed by either the Owner or the Domestic Partner.

R. Effective Date means the date that this Declaration is recorded in the Gilmer County, Georgia land records.

S. Eligible Mortgage Holder means a holder of a first Mortgage secured by a Lot who has submitted a request in writing to the Association to be deemed an Eligible Mortgage Holder. Such notice must include the mortgage holder's name and address and the Lot number or address of the property in the Community secured by such mortgage.

T. Lot means a portion of the Community, whether or not improvements are constructed thereon, intended for ownership and use as a single-family dwelling site subject to this Declaration, as shown may be on the Plats for the Community recorded in the Gilmer County, Georgia land records. The ownership of each Lot shall include, and there shall pass with the title to each Lot as an appurtenance thereto, whether or not separately described, all of the rights and interest of an Owner in the Common Property, as herein provided, together with membership in the Association.

U. Mortgage means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.

V. Mortgagee or Mortgage Holder means the holder of any Mortgage.

W. **Occupant** means any person staying overnight in a dwelling on a Lot for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year.

X. **Officer** means an individual who is elected by the Board of Directors to serve as President, Vice President, Secretary, or Treasurer or to hold such other office as may be established by the Board of Directors.

Y. **Owner** means the record title holder of a Lot, but shall not include a Mortgage Holder. For purposes hereof, the holder of a tax deed on a Lot shall be deemed the Owner thereof, notwithstanding the fact that there may exist a right of redemption on such Lot.

Z. **Person** means any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.

AA. **Plats** means those plats of the survey relating to the Community filed in Gilmer County, Georgia land records. All of the Plats of survey are incorporated herein by this reference.

BB. **Residence** shall mean a dwelling constructed on a Lot.

CC. **Supplementary Declaration** shall mean an amendment or supplement to this Declaration which subjects additional property to this Declaration and/or imposes additional covenants, conditions, restrictions or easements on the land described therein.

DD. **Total Association Vote** shall mean all of the eligible votes attributed to members of the Association (including votes attributed to Declarant), and the consent of Declarant for so long as Declarant owns a Lot primarily for the purpose of sale. This calculation shall exclude the votes of any Owners whose voting rights have been suspended as provided for in this Declaration and the Bylaws, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast. As an example and illustration, if there are 100 Lots in the Community and 24 of those Lots have suspended voting rights, then the Total Association Vote would be 76. In this illustration, a matter requiring a majority of the Total Association Vote would then require approval of 39 votes, which is a majority of 76.

EE. **Violator** means any Owner who violates the Association Legal Documents and any Owner's family member, guest or Occupant who violates such provisions; provided, however, if an Owner's family member, guest or Occupant violates the Association Legal Documents, the Owner of the relevant Lot also shall be considered a Violator.

### 3. **SUBMITTED PROPERTY AND ADDITIONAL PROPERTY**

#### A. **Submitted Property**

The real property in the Community subject to this Declaration is located in Gilmer County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, and incorporated herein by this reference and as may be shown on the Plats. Said submitted property shall be held, transferred, sold conveyed, used, occupied and encumbered subject to this Declaration.

#### B. **Additional Property**

Any property shown on any Plat, which property has not been submitted to the Declaration, may be submitted to the Declaration by recording a consent form executed by the owner of such property and by the Board of Directors. Other property not shown on any Plat may be submitted to this Declaration with the approval of Owners holding at least a majority of the eligible vote of the total Association membership and by recording a consent form executed by the owner of such property and by the Board of Directors.

Further, as the owner thereof, or if not the owner, with the consent thereof, Declarant shall have the unilateral right, privilege and option from time to time at any time until ten (10) years after the recording of this

Declaration to subject all or a portion of the real property described in Exhibit "C", attached hereto and by this reference incorporated herein, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Office of the Clerk of Superior Court of Gilmer County, Georgia, a Supplemental Declaration executed by Declarant describing the property being subjected. There shall be no obligation that Declarant submits any additional property.

Further, Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Paragraph for the purpose of removing any portion of the Community then owned by Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community. Any such withdrawal shall be accomplished by filing an amendment to this Declaration describing the property removed, which amendment shall be effective upon recording in the Office of the Clerk of Superior Court of Gilmer County, Georgia unless a later effective date is provided therein. Such amendment shall be executed by Declarant and the Owner(s) of the property being removed and shall not require the vote or consent of any other Person.

#### **4. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

##### **A. Membership**

The Association shall have one class of membership. Each Lot Owner shall be a member of the Association. This does not include persons who hold an interest merely as security for the performance of an obligation. The giving of a security interest shall not terminate an Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot owned in the Community. An Owner's spouse or Domestic Partner may exercise all membership rights and privileges of the Owner including the right to hold office, but in no event shall more than one office be held on each Lot owned. Nothing in this Section shall restrict the number of votes cast or the number of officers and directors appointed by the Declarant.

##### **B. Voting**

The Owner(s) of the Lot shall be entitled to one equally weighted vote for such Lot, which vote may be exercised and suspended as provided in this Declaration and the Bylaws.

#### **5. ALLOCATION OF LIABILITY FOR COMMON EXPENSES**

##### **A. General Allocations**

Except as provided below, or elsewhere in the Association Legal Documents, the amount of all Common Expenses shall be assessed against all the Lots equally.

##### **B. Specific Special Assessments**

Notwithstanding the above, the Board of Directors shall have the power to levy specific special assessments in its discretion, it shall deem appropriate, as follows:

(1) Any Common Expenses benefiting less than all of the Lots shall be specially assessed equitably among all of the Lots so benefited, as determined by the Board of Directors;

(2) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots shall be specially assessed against the Lot or Lots, the conduct of any Occupant, licensee or invitee of which occasioned any such Common Expenses; and

(3) Any Common Expenses significantly disproportionately benefiting all of the Lots shall be assessed equitably amount all of the Lots in the Community as determined by the Board; and

Failure of the Board to allocate Common Expenses as a Specific Special Assessment as provided herein shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

## **6. ASSESSMENTS**

### **A. Purpose of Assessment**

The Association shall have the power to levy assessments as provided herein. Assessments shall be used for any purpose the Board of Directors determines will benefit the Owners or the Community.

### **B. Creation of the Lien and Personal Obligation For Assessments**

Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all assessments and other charges levied pursuant to this Declaration and the Bylaws.

All assessments and charges levied against a Lot and its Owner, together with interest in the amount of 18% per annum, late fees in the amount of 10%, costs and reasonable attorneys' fees actually incurred (including post-judgment attorneys' fees, costs and expenses), and rents (if the Board of Directors so elects), shall be: (1) a charge and a continuing lien against such Lot; and (2) the personal obligation of the Person who is the Owner of the Lot on the due date of the assessment. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance of the Lot. The Association, in the Board's discretion, may record a notice of such lien in the Gilmer County, Georgia land records evidencing the lien created under this Declaration. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes; or (b) the lien of any mortgage, deed of trust or security deed recorded prior to the recording of this Declaration; or (c) the lien of any purchase money mortgage, provided that the mortgagee, beneficiary or security deed holder was not an owner of the Lot while any assessments, fines or charges were outstanding or unpaid.

Assessments shall be paid in such manner and on such dates as determined by the Board of Directors. No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever. Notwithstanding anything to the contrary stated herein, except to the extent provided otherwise in this Paragraph 6, Declarant shall have no obligation to fund budgetary deficits of the Association and shall not be obligated to pay any assessments on Lots owned by Declarant.

### **C. Delinquent Assessments**

All assessments and charges not paid on or before the due date shall be delinquent, and the Owner shall be in default. In addition to the powers set forth below for collection of unpaid assessments and charges, the Association shall be entitled to exercise all other rights and remedies provided by law and in equity to satisfy an Owner's debt.

If any assessment or charge, or any part or installment thereof, is not paid in full within 10 days of the due date, or such later date as may be provided by the Board of Directors:

(1) a late charge equal 10% of the amount not paid may be imposed without further notice or warning to the delinquent Owner;

(2) interest at the rate of 18% per annum shall accrue from the due date;

(3) the Board may accelerate and declare immediately due any unpaid installments of that Owner's assessments and charges. Upon acceleration, the Owner shall lose the privilege of paying such assessments and charges in installments, unless the Board otherwise reinstates such privilege in writing. If the Association has pending legal action against an Owner for unpaid assessments or charges, then no notice shall be required to accelerate unpaid installments of any annual or special assessments that come due during any fiscal year after such legal action commences, until all amounts owed are paid in full or the Board otherwise reinstates such privilege in writing;



(4) Any and all legal fees for collection of the assessments shall be imposed without further notice; and

(5) the Association may bring legal action to collect all sums owed under the Declaration and Georgia law.

If assessments or other charges, or any part thereof, remain unpaid more than 30 days after the due date, the Owner's right to vote and use the Common Property are suspended automatically until all amounts owed are paid in full or the Board of Directors otherwise reinstates such rights in writing; provided, however, the Board may not deny ingress or egress to or from a Lot.

If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorneys' fees, costs and expenses, then to costs and attorneys' fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies that are created by the application of current payments to outstanding delinquent assessments or charges.

**D. Computation of Operating Budget and Assessment**

To establish the annual assessment for a fiscal year, the Board of Directors shall prepare a budget covering the estimated costs of operating the Community, which may include a reserve contribution as provided below. The Board shall provide the budget to the Owners at least 60 days before the due date of such assessment, or the first installment thereof. The budget and the assessment shall become effective unless, before the due date of such assessment, a majority of the total Association membership votes to disapprove them at a duly called membership meeting.

If the membership disapproves the proposed budget or the Board of Directors fails for any reason to determine a new budget, the budget then in effect shall continue until a new budget is adopted as provided herein. The Board may adopt an adjusted budget at any time during the year following the procedure specified above.

The budget shall not operate as a limitation on expenditures by the Board of Directors. The budget is merely an estimate of Common Expenses on which the Board establishes the annual assessment. The Board of Directors shall have the right to: (i) not spend the full amount budgeted for any particular line item in the budget; (ii) spend more than what has been budgeted; and (iii) shift revenues within the budget from one line to another. Notwithstanding anything to the contrary stated herein, during the Declarant Control Period, Declarant or the Declarant appointed Board of Directors shall be authorized to unilaterally adopt a new or revised budget to reflect costs that were not contemplated at the time the initial, estimated operating budget for the Association was developed, or to reflect unanticipated changes in the costs of a line item in such budget.

**E. Special Assessments**

In addition to the all other assessments and charges provided for herein, the Board of Directors may levy a special assessment against all Owners for any purpose. Special assessments totaling more than \$500.00 per Lot in any fiscal year must first be approved by at least a majority of those Owners either voting by written consent or ballot pursuant to the Bylaws, or at least a majority of those Owners present or represented by proxy at a duly called meeting of the members, notice of which shall specify the purpose of such meeting.

**F. Capital Budget and Contribution**

After the expiration of the Declarant Control Period, the Board of Directors may annually prepare a capital reserve budget, which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board may set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be

fixed by the Board and included within the budget and assessment as provided herein. A copy of the capital reserve budget shall be distributed to each member in the same manner as the operating budget.

Notwithstanding any other provisions of this Declaration, during the Declarant Control Period Declarant shall not be required to prepare a capital reserve budget, set any other capital reserve contribution, or otherwise collect amounts for capital reserves.

**G. Foreclosure Administration Fee**

It is recognized that foreclosures of mortgages on Lots create substantial administrative and other burdens on the Association. These additional burdens on the Association include, but are not limited to, having to monitor the status of mortgages and legal periodicals to determine when foreclosures occur, searching the Gilmer County, Georgia land records to determine the names of the purchasers at foreclosure sales, contacting the foreclosure purchasers/owners regarding foreclosure-purchaser responsibilities and assessment obligations and updating Association records multiple times to deal with just a single Lot. Pursuant to this Declaration, the Association is authorized to assess individual Owners certain fees and expenses occasioned by and benefiting just those Owners or those Owners' Lots. In accordance with these provisions, and in addition to annual assessments, special assessments, and other charges provided for in this Declaration, any Person who acquires a Lot at a foreclosure sale of the mortgage on such Lot, or by deed in lieu of a foreclosure, will be required to pay the Association a Foreclosure Administration Fee of \$1,000 at the time the foreclosure deed or deed in lieu of foreclosure is recorded in the Gilmer County, Georgia records. The Foreclosure Administration Fee shall constitute a specific assessment as described in this Declaration.

**H. Statement of Account**

Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments and charges due and unpaid, including but not limited to any late charges, interest, fines, attorneys' fees or other charges against such Lot.

**I. Surplus Funds and Common Profits**

Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall be applied to the next year's operating budget.

**J. Date of Commencement of Assessments**

Assessments shall commence when the Declarant and/or Board of Directors first determines a budget and levies assessments. The assessments provided for herein shall commence as to a Lot on the date that the Lot is conveyed by Declarant to an Owner. Any Lot which has been approved by Declarant for the use as a model home for marketing and sales purposes shall not be subject to assessments under this Declaration whether owned by the Declarant or any other Person, so long as such Lot is approved for use as a model home in writing and is not occupied for residential purposes. Notwithstanding anything to the contrary herein, Declarant shall not be obligated for the payment of assessments for any Lot owned by Declarant.

**K. Budget Deficits During Declarant Control**

For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may: (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the annual, special and specific assessments collected by the Association in any fiscal year (such advances shall be evidenced by promissory notes from the Association in favor of the Declarant); or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for similar loans in the local area of the Community. No Mortgage secured by

the Common Property or any of the improvements maintained by the Association shall be given in connection with this loan.

**L. Working Capital Contribution.**

Upon the sale of each and every Lot in the Community, the new Owner shall pay a working capital contribution to the Association in an amount determined by the Board of Directors from time to time, but not to exceed the amount of the annual assessment applicable to all Lots in the Community. The working capital contribution shall be collected at the closing of such transaction and shall be paid to the Association; or if not collected at closing, shall be paid immediately upon demand by the Association. The working capital contribution shall constitute a specific assessment against the Lot, shall be in addition to, not in lieu of, the annual assessment and shall not be considered an advance payment of such assessment. The working capital contribution may be used by the Association for any purpose, including, without limitation, for the payment of operating expenses of the Association and other expenses incurred by the Association pursuant to the provisions of this Declaration. Notwithstanding anything to the contrary herein, this specific assessment shall not apply to the holder of any first Mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage, but shall apply to the Owner acquiring the Lot from the foreclosing Mortgagee. Further, this specific assessment shall not apply to the initial sale from Declarant to the first Owner, but shall be levied on each and every sale thereafter.

**7. MAINTENANCE RESPONSIBILITY**

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**A. Owner's Responsibility.**

Except as provided in Section B below, all maintenance of the Lot and all structures, parking areas, landscaping and other improvements on the Lot shall be the sole responsibility of the Owner, who shall maintain the Lot in a manner consistent with the Community-Wide-Standard and this Declaration. The Owner's landscaping maintenance requirement shall extend to the private roadway.

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

**B. Association's Responsibility**

The Association shall maintain and keep in good repair the Area of Common Responsibility. This maintenance obligation shall include, without limitation, maintenance and repair, and replacement, subject to any insurance then in effect, all landscaping and improvements located on the Area of Common Responsibility. The Association shall maintain all Community entry features, including entry area landscaping, entrance monuments, gates, and any irrigation system and the expenses for water and electricity provided to such Community entry features, if any, regardless of whether said entry features are located on a Lot, private property, or public right-of-way. The Association shall maintain storm water drainage facilities within roadways or Common Property in the Community, if and to the extent the same are not maintained by a governmental entity; provided however, each Owner of a Lot, and not the Association, shall be responsible for the maintenance of all storm water drainage facilities located on and used exclusively in connection with such Lot. The Association shall maintain all Community greenspace and open space, if any. The Association shall maintain all roads/streets within the Community including all street medians and street islands, if any. The Association shall maintain any property outside the Lots located within the Community which was originally maintained by the Declarant.

In addition, the Association shall have the right, but not the obligation, to maintain public rights of way adjacent to the Community and other property not owned by the Association; if the Board of Directors in its sole discretion determines that such maintenance would benefit the Community. At any point thereafter, the

Board can cease to maintain such property and such maintenance obligation will revert back to the party originally responsible therefore.

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

If, during the course of performing its maintenance responsibilities hereunder, the Board discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's sole expense, without prior notice to the Owner after making a good faith effort to contact the Owner, such being deemed an emergency situation hereunder.

If the Board of Directors determines that the need for maintenance or repair on the Area of Common Responsibility is caused through the willful or negligent act of any Owner or Occupant or his or her family, guests, tenants, or invitees, then the Association may charge the cost of any such maintenance, repair, or replacement as a specific special assessment against the Owner's or Occupant's Lot and the Owner thereof.

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

**C. Failure to Maintain**

If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her maintenance, repair or replacement obligations pursuant to this Paragraph, then the Association shall give the Owner written notice of: (1) the Owner's failure or refusal; (2) the Association's right to provide necessary maintenance, repair, or replacement at the Owner's sole cost and expense; and (3) the maintenance, repair, or replacement deemed necessary by the Board.

Unless the Board determines that an emergency exists or a violation is re-occurring for which notice previously has been issued hereunder, the Owner shall have 10 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within 10 days. If the Board determines that an emergency exists, a violation is re-occurring for which notice has been previously issued hereunder or an Owner has not complied with the demand given by the Association hereunder, the Association may provide any such maintenance, repair or replacement, the costs of which shall be a specific special assessment against the Owner and the Lot.

**D. Maintenance Standards and Interpretation**

The Board of Directors may establish, interpret and enforce maintenance standards for the Community. These standards may vary over time, however, the variances shall not constitute a waiver by the Board of the right to establish and enforce maintenance standards under this Paragraph. No Board decision or interpretation regarding maintenance standards shall constitute a binding precedent with respect to subsequent Board decisions or interpretations.

## **8. ARCHITECTURAL CONTROLS**

### **A. Architectural Control Committee**

Except as specifically authorized by this Article, during the Declarant Control Period, the Declarant shall have sole control and make any and all decisions for the Architectural Control Committee ("ACC"). Further, the regulations set forth in this Paragraph 8 shall not apply to the activities of the Declarant, nor to improvements to the Common Property by or on behalf of the Association. This Paragraph may not be amended during the Declarant Control Period without the express written consent of the Declarant. The Declarant shall have all powers set forth for the Board of Directors and the ACC in this Paragraph 8 until the end of the Declarant Control Period. After the Declarant Control Period, the Board of Directors may establish the ACC to be a standing committee of the Association. Unless and until an ACC is established after the Declarant Control Period, the Board of Directors shall make all architectural decisions as required herein. The Declarant, Association, Board of Directors, ACC, and members thereof, are not responsible for ensuring, and shall not be held liable for any injury, damage or loss arising out of: (1) the quality, structural integrity, or soundness of any modification on a Lot; or (2) any modification's compliance with building codes, zoning regulations or other governmental requirements.

### **B. Limitation on Exterior Modifications**

Except as otherwise provided herein, no Owner, Occupant, or any other person may, without written approval of the Declarant, Board or ACC:

- (1) construct any dwelling or other improvement on a Lot;
- (2) make any change or alteration that affects the exterior appearance of the Lot; or
- (3) erect, place or post any object or thing on the Lot that affects the exterior appearance of the Lot.

Additionally, no modification shall encroach onto the Area of Common Responsibility unless expressly approved in writing by the Board.

### **C. Design Guidelines**

The Declarant may adopt and establish Design Guidelines. Design Guidelines may be changed during the Declarant Control Period by the Declarant unilaterally, and after the Declarant Control Period by a majority vote of the Board of Directors.

### **D. Standards and Interpretation**

The Declarant during the Declarant Control Period and after, the Board of Directors may establish, amend, and publish written Community-Wide Standards for modifications that affect the exterior appearance of Lots. These standards may vary for different parts of the Community, based on street visibility and location of the proposed modification or Lot. No Board decision or interpretation regarding such standards shall constitute a binding precedent with respect to subsequent Board decisions or interpretations.

### **E. Application Process and Review**

The Declarant during the Declarant Control Period and after, the Board of Directors may establish procedures, forms, conditions, and requirements for the submission of applications for modifications to the exterior appearance of a Lot. Such applications shall be in writing and, unless otherwise provided by the Board, submitted to the ACC. If the application requests any variance from provisions of this Declaration or published Community-Wide Standards related to the exterior appearance of the Lot, the Owner must expressly identify such variance in the application. No approval issued hereunder shall authorize such a variance unless that variance is expressly identified in the application and specifically approved in writing by the Board or ACC.

Except as may otherwise be determined by the Board, the ACC or its designated representative shall be the sole arbiter of such application.

The standard for approval of such modifications shall include, but not be limited to: (1) aesthetic consideration; (2) materials to be used; (3) compliance with the Community-Wide Standards, this Declaration, or the design standards which may be established by the Board; (4) harmony with the external design of the existing dwellings, Lots and structures, and the location in relation to surrounding structures and topography; and (5) any other matter deemed to be relevant or appropriate by the Board or ACC. The Board or ACC shall approve any request that it determines, in its reasonable discretion, to be in substantial compliance with such standard for approval.

**F. Commencement and Completion of Construction**

All modifications approved hereunder must be commenced within six months from the date of approval, or such approval shall be deemed revoked, unless the Board or ACC gives a written extension for commencing the work. All work approved hereunder shall be completed in its entirety within six months from the date of commencement, unless otherwise agreed in writing by the Board or ACC.

**G. Professional Consultants and Fees**

The Declarant during the Declarant Control Period and later, the Board of Directors shall be authorized to charge, as a specific special assessment, against any Owner and Lot: (1) a reasonable administrative fee for review of modifications on, or submitted plans for, such Lot; and (2) reasonable fees for any architect, engineer or other professional consultant engaged by the Board to assist with review of modifications on, or submitted plans for, such Lot. Any professional consultants' fees shall constitute specific assessments as described in this Declaration.

**H. Limitation of Liability**

The Association, Declarant, Board of Directors, ACC, and members thereof, are not responsible for ensuring, and shall not be held liable for any injury, damage or loss arising out of: (1) the quality, structural integrity, or soundness of any modification on a Lot; or (2) any modification's compliance with building codes, zoning regulations or other governmental requirements.

**9. USE RESTRICTIONS**

Each Owner shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of the Association Legal Documents. In addition to the following use restrictions, the Board of Directors may establish rules and regulations in accordance with the terms hereof and as specified in the Bylaws.

**A. Residential Use**

Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any portion of the Community, except that the Owner or Occupant residing in a dwelling on a Lot may conduct ancillary business activities within the dwelling so long as:

(1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the dwelling;

(2) the business activity does not involve visitation or deliveries to the Lot by employees, clients, customers, suppliers, couriers, mail carriers, or other business invitees in greater volume than would normally be expected for a Lot without business activity;

(3) the business activity does not involve use of the Common Property, except for necessary access to and from the Lot by permitted business invitees;

(4) the business activity is legal and conforms to all zoning requirements for the Community;

(5) the business activity does not increase any insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage; and

(6) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other Owners or Occupants, as determined in Board of Director's discretion.

The Association has no liability for any business activity in the Community. The Association also has no liability for any action or omission by it, its Directors, Officers, agents, representatives and/or vendors, that may adversely impact an Owner's or Occupant's business activity. Each Owner and Occupant hereby releases and holds harmless the Association, its Directors, Officers, agents, representatives and/or vendors, for any interruption or suspension of, or any damages to, any business activities conducted on a Lot. Owners and Occupants shall obtain whatever supplemental insurance may be necessary to protect their business assets, business continuity and business interests on their Lots. The Association is not obligated to obtain any insurance coverage for any Owner's or Occupant's business activity.

The term "business," as used in this provision, shall include, without limitation, any occupation, work or activity that involves the provision of goods or services to persons other than the provider's family for a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore.

Further, no Lot may be used to access property outside of the Community.

**B. Subdivision of Lots**

No Lot may be subdivided into a smaller parcel except for those Lots owned by Declarant.

**C. Combination of Lots**

Notwithstanding anything to the contrary herein, an Owner of two (2) directly adjacent Lots may be permitted, with written Board prior approval, to seek and receive permission from Gilmer County, Georgia to re-plat the two (2) Lots to create one (1) combined parcel for tax identification purposes. Once approved by the Board and combined as evidenced by a recorded survey approved by Gilmer County and showing the two (2) Lots combined as one (1) parcel, the real property may be considered one (1) parcel for tax identification purposes; however, for purposes of this Declaration the combined parcel shall be forever deemed two (2) Lots for assessment and voting purposes. Lots so combined shall remain combined perpetually and may not be later subdivided. Further, no more than two (2) Lots may be combined.

**D. Use of Area of Common Responsibility**

There shall be no obstruction of the Area of Common Responsibility, nor shall anything be kept, parked or stored on or removed from any part of the Area of Common Responsibility without the express written consent of the Board of Directors. The Association may remove and either discard or store any unauthorized personal property left or kept on the Area of Common Responsibility and the Association shall have no obligation to return, replace or reimburse the owner for such property. The Association is not liable to any Person for any loss of, theft of, or damage to any personal property.

**E. Prohibition of Damage and Illegal Conduct**

Without prior written consent of the Board of Directors, nothing shall be done or kept in the Community which would increase the Common Expenses, damage the Common Property, or be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body. Noxious, destructive, offensive, hazardous, or unsanitary activity shall not be carried on in the Community, as such activity or conduct may be defined in the Association's rules and regulations.



**F. Firearms**

The display or recreational discharge of firearms on the Common Property is prohibited, except: (1) by law enforcement officers; (2) to transport lawful firearms to or from a Lot, and (3) in self-defense. The term "firearms" includes, but is not limited to, any device which will or can be converted to expel a projectile by the action of an explosive or electrical charge or by the action of compressed air. Examples of "firearms" as described in this section include, but are not limited to, handguns, rifles, shotguns, stun guns, tasers, "B-B" guns, pellet guns and paintball guns.

**G. Pets**

No animals, livestock, or poultry of any kind may be raised, bred, kept or permitted on any Lot with the exception of dogs, cats or other usual and common household pets in reasonable number, as determined by the Board. No dogs determined in the sole discretion of the Board to be dangerous dogs may be brought onto or kept on the Property at any time by any Lot Owner, Occupant, or guest of an Owner or Occupant. Any pet which endangers the health of any Owner or Occupant of any Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the sole discretion of the Board of Directors, must be permanently removed from the Property upon seven (7) days' written notice by the Board of Directors. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet. Any pet which, in the sole discretion of the Board, presents an immediate danger to the health, safety or property of any member of the community may be removed by the Board without prior notice to the pet's owner. Feces left by pets on the Community must be removed promptly by the owner of the pet or the person responsible for the pet. Any Owner or Occupant who keeps or maintains any pet in the Community agrees to indemnify and hereby holds harmless the Association, its Directors, Officers, and agents, from any loss, damage, claim or liability of any kind or character whatsoever related to such pet. The Board may establish additional rules regarding pets in the Community, which may include restrictions on the breeds, number and/or size of permitted pets.

**H. Vehicles, ATVs, and Parking**

Vehicles only may be parked in garages, driveways on Lots, designated parking spaces, or other areas authorized in writing by the Board. Vehicles may not be parked on any grass or landscaped areas on Lots. All vehicles must travel at or below the posted speed limit.

Disabled and stored vehicles are prohibited from being parked in the Community, except in garages. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains in the Community, other than in a garage, for 14 consecutive days or longer without prior written consent of the Board.

Boats, jet-skis, all trailers, buses, taxis, hearses, limousines, recreational vehicles, motor homes, campers, panel trucks, trucks with a cargo-load capacity of one ton or more, full-size vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), vehicles containing visible evidence of commercial use (such as tool racks, ladders, ladder racks or tow winches), and vehicles with commercial writings on their exteriors (except for law enforcement vehicles marked as such) are also prohibited from being parked in the Community, except: (1) in garages or as otherwise approved by the Board; (2) in the case of service vehicles, on a temporary basis during daytime business hours or during emergencies for the purpose of serving a Lot, (3) in the driveway on a temporary basis not to exceed fourteen (14) days in a fiscal year, (4) in the case of vehicles with commercial writings, one (1) such vehicle may be parked in the driveway, but any additional vehicles with commercial writings must adhere to the restrictions herein; or (5) behind the dwelling only if such location does not allow the vehicle to be visible from the road or other Lots. The Board may establish additional rules regarding vehicles and parking in the Community, which may include restrictions on the number of vehicles which may be parked in the Community.

If any vehicle is parked in the Community in violation of this Paragraph or the Association's rules, the Board or agent of the Association may tow or boot the vehicle after 24 hours written notice. Such notice shall: (1) be placed on the vehicle; (2) specify the nature of the violation; (3) warn of possible towing or booting; and (4) state the name and telephone number of a person to contact regarding the violation. If 24 hours after such



notice is placed on the vehicle the violation continues or thereafter occurs again within six months of such notice, the Board or agent of the Association may have the vehicle towed or booted in accordance with the original notice and without further notice. If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or dwelling, is obstructing the flow of traffic, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed or booted immediately.

The Association has no liability for any towing or booting in accordance with this subparagraph. Each Owner and Occupant hereby releases and holds harmless the Association, its Directors, Officers, agents and representatives, for any claim or damage from any such towing or booting. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines.

**I. ATVs and ATV Trails**

ATV vehicles including golf carts, mules, side-by-sides, and 4-wheelers, shall be permitted subject to the rules, regulations, and guidelines of the Association, but may only be used on the Community roadways to get from one Lot to another, to visit the Common Property, or on designated ATV trails which may be developed as part of Creekside Crossing. Racing of such vehicles is prohibited. ATV vehicles must also always travel at or below the posted speed limit. Additional use rules may be adopted by the Declarant and/or Board of Directors.

If ATV trails are created by the Declarant throughout the Community, these trails will be shown on the recorded Plats and use is subject to rules and regulations established by the Declarant and Board of Directors. ATV trails, if created, shall have limited maintenance by the Association in the form of replenishing gravel to the extent deemed necessary by the Board of Directors. The Association shall not be responsible for ensuring that the ATV trail is clear of debris. Said trails, if created, may be easements across Lots as shown on the Plats or be designated as separate parcels of Common Property. Each Owner hereby acknowledge for himself/herself and any guests and minor children that using an ATV is dangerous and said trails, if created, are in a natural state which likely will include tree limbs, rocks, and other debris. Each Lot Owner for himself/herself, all guests, Occupants, and minor children agree to assume all liability for any damages related to the use of ATV, the use of ATV trails or the use of the private roadways and agrees to hold harmless the Declarant, the Association, the Board of Directors and the Association members and agents for any damage that may arise. The Declarant, the Association, and any Lot Owner on which an ATV trail easement lies shall not be liable for injury or damage to person or property caused by use of the ATV trail or by the Owner of any Lot, or any other person. Further, any damage to surrounding Lots by an ATV shall be the sole financial responsibility of the owner of the ATV. The use of ATVs within the Community shall be at your own risk.

**J. Signs**

During the Declarant Control Period, no signs except for security signs as provided for herein may be erected without the prior written permission of the Declarant. After the Declarant Control Period and except as may be provided for herein or as may be required by legal proceedings or any governmental construction permitting process, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed, or permitted to remain in the Community without the prior written consent of the Board of Directors or ACC, other than: (2) two professional security signs not to exceed six inches by six inches each in size displayed on a Lot; (1) one professionally lettered "For Sale" sign not to exceed 24" by 36" in size displayed on a Lot (which dimensions shall apply to the sign only and does not apply to post size); and one (1) professionally lettered political candidate endorsement placards not to exceed 24" by 30" in size displayed on a Lot from 60 days before an election to five days after such election. The Board may establish rules permitting temporary signs on Lots announcing open houses, births, birthdays or other events for limited periods of time. The Board shall have the right to erect signs on the Common Property.

**K. Rubbish, Trash and Screening of Items**

Owners and Occupants shall regularly remove all rubbish and trash from the Lot. No rubbish or trash shall be placed on the Common Property, except as provided herein. Rubbish and trash shall be disposed of

in appropriate sealed bags and placed in proper receptacles for collection. The Board may establish additional rules regarding placement of trash cans for pick-up and/or storage, including requiring trash removal in the Community from a single vendor and establishing schedules for trash can placement and trash pickup. All clotheslines, garbage cans, woodpiles, swimming pool pumps, filters, and related equipment and other similar items shall be located or screened so as to be concealed from view of the neighboring Lots and Common Property and the street on which the Lot (on which the item is located) fronts. All construction debris, rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate.

**L. Basketball Hoops and Goals**

Basketball hoops and goals shall not be attached to the exterior portion of any house, garage or other building structure constructed on a Lot or placed on any other portion of a Lot except as provided below. Notwithstanding the above, free standing basketball poles, goals and backboards may be erected immediately adjacent to the driveway on a Lot if they are set back at least twenty-five (25') feet from the front of the Lot, the poles are metal and painted black or such other color as is approved by the Architectural Control Committee and the goal and backboard are manufactured and not homemade.

**M. Unsightly or Unkempt Conditions**

Owners and Occupants are prohibited from engaging in activities which cause disorderly, unsightly or unkempt conditions on the Common Property or outside of a dwelling in the Community, such as the assembly and disassembly of motor vehicles and other mechanical devices. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, potted plants, patio furniture and grills may be kept outside the dwelling on any Lot. Owners and Occupants shall maintain such items in a neat and attractive condition, as determined in the Board's sole discretion. All liquid propane tanks installed after the date this Declaration is recorded, must be buried subject to any rules, regulations and guidelines of the Declarant and/or Board of Directors.

**N. Drainage**

Piping and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. Each Owner and Occupant shall ensure that any drainage piping and/or drainage ditches on the Owner's Lot are clear of obstruction and debris. Furthermore, no Owner or Occupant may obstruct or rechannel the drainage flows across the Owner's Lot.

**O. Erosion Control; Contamination**

No Owner or Occupant shall engage in any activity which creates erosion or siltation problems or causes contamination of or damage to any stream, water course or any other Lot in the Community. Each Owner and Occupant shall be liable for all damages and restoration costs resulting from such unauthorized activity. Any grading performed in violation of any county, state or federal ordinance, statute or regulation shall be deemed to be a noxious or offensive activity and may result in fines by the Association, or in a civil action to enjoin such activity.

**P. Impairment of Easements**

No Owner or Occupant shall impair any easement existing in the Community, or do any act or allow any condition to exist which will adversely affect the other Lots or their Owners or Occupants.

**Q. Sight Distance at Intersections**

All property located at street intersections shall be landscaped and kept so as to permit safe sight across the street corners. No vehicle, fence, wall, hedge, shrub, tree or other landscaping shall be placed or permitted to remain where it would create a traffic or sight problem, or in a location which obstructs sight lines at elevations between two and six feet above the streets shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street easement or right-of-way and a line connecting them at points 25 feet from the intersection of the street lines. The same sight line limitation shall apply on

any Lot within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**R. Tree Removal**

Unless located within ten (10) feet of a residence or detached building or within ten (10) feet of an approved site for such residence or building, no trees, shrubs, bushes or other vegetation having a trunk diameter of six (6) inches or more at a point two (2) feet above the ground level shall be cut, destroyed or mutilated without approval from the ACC. Dead or diseased trees, shrubs, bushes or other vegetation shall be cut and removed promptly by the Owner of any Lot thereof without the need for approval by the Board. All architectural plans for construction on a Lot must depict which trees will be removed from a Lot and which trees will remain. No trees except as provided for herein and/or approved during the Lot construction approval process may be removed without prior written approval.

**S. Yard Sales**

Yard sales, garage sale, flea market or similar activity may only be conducted not more than once in any 3-month period without the prior written consent of the Board of Directors and subject to all reasonable conditions that the Board may impose.

**T. Garages**

If garage space is available, Owners and Occupants should park their cars and other motor vehicles in the garage before parking in the driveway. Garage doors also should remain closed when not in use for ingress, egress or garage use, or when the Owner or Occupant is not outside on the Lot. Garage conversions are prohibited.

**U. Window Treatments**

Unless otherwise approved in writing by the Board of Directors, all windows on a dwelling on a Lot which are exposed to a street or another dwelling shall have customary and appropriate window treatments. All window treatments shall be of a neutral color as to portions that may be seen from the exterior of the home.

**V. Antennas and Satellite Dishes**

Except as provided below or otherwise approved by the Board of Directors, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors in any portion of the Community. Direct broadcast satellite ("DBS") antennas and multi-channel multi-point distribution services ("MMDS") one meter or less in diameter and television broadcast service antennas may be installed in accordance with rules and regulations of the Federal Communication Commission ("FCC") and the Association. Any such devices shall be installed in the least conspicuous location available on the Lot that permits reception of an acceptable quality signal.

**W. Swimming Pools**

No above-ground swimming pools shall be allowed except for inflatable infant wading pools, which must be drained and removed from the exterior of the Lot nightly.

**X. Driveways**

All driveways shall be surfaced with gravel, concrete or a similar substance that is approved by the ACC.

**Y. Sale Period.**

Notwithstanding any provisions contained in this Declaration to the contrary, during the period of the sale of the Lots, it shall be expressly permissible for Declarant, its contractors, agents, employees, assigns and representatives, to maintain and carry on, upon such portion of the Community as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the completion and sale of the Lots, including, but without limitation, business offices, signs, model Lots and sales offices.

**Z. Entry Features**

Owners shall not alter, remove or add improvements to any Community entry feature, monument, gate, and/or fencing constructed or erected by the Declarant or the Association on any Lot, or any party of any easement area associated therewith without prior approval in accordance with the provisions of Paragraph 8 herein.

**AA. Building Setbacks and Easement Reservations**

Portions of the Community contain buffer and/or setback areas, as more particularly shown on the recorded subdivision plat for the Community, as may be amended by a valid variance. Any construction or land disturbing activities performed in said buffer/set back areas, if any, shall be approved pursuant to Paragraph 8 herein, and shall comply with all Gilmer County rules, regulations and zoning conditions applicable to such areas.

**BB. Square Footage and Mobile Home Prohibition**

No residence shall be erected, constructed, maintained, used or permitted to remain on any Lot other than one single-family dwelling. Any residence must adhere to the Design Guidelines, if any, and receive prior written approval as required herein. Each residence to be constructed on a Lot shall have a minimum finished heated and cooled area of 1,200 square feet for a residence with a minimum of 800 square feet on the first floor or level of the home built above the basement of the house. On a multi-level structure, a full walk-out basement can be considered part of the square footage if it is heated space, has a permanent floor (i.e. poured cement, etc.), and has minimum ceiling height of eight (8) feet throughout entire basement square footage; however the basement cannot and will not be considered as the first floor of dwelling. Once construction has begun on said dwelling, all exterior construction must be completed within one (1) year of the commencement of construction.

Mobile homes are strictly prohibited within the Community. Certain modular homes that satisfy the square footage requirements set forth herein and have received prior written approval as required in Paragraph 8 may be permitted.

**CC. Guest Suites/Houses**

Subject to approval of a conditional use permit that may be required by Gilmer County Planning and Zoning, which is not guaranteed herein, a guest suite building may be constructed, which is complimentary to the primary building and constructed of the same materials. If a guesthouse is constructed, the guesthouse cannot exceed the primary building either in height or square footage. The guesthouse must be a minimum of 800 square feet of enclosed, heated space. Said guesthouse must adhere to the Design Guidelines set forth in this Declaration, or as later adopted by the Declarant and/or Board of Directors and receive prior written approval as required herein. Once construction has begun on said guesthouse, all exterior construction must be completed within one (1) year of the commencement of construction.

**DD. Solar Panels**

No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure and receives prior written approval.

**EE. Camping**

This Community is not to be used as a campground. Lot owners are not, however, prohibited from overnight stays in professionally manufactured equipment, provided the camping equipment is not left on any Lot for more than ten (10) out of any thirty (30) day period and is not in violation of any local ordinance. Tent camping is allowed provided tent(s) are not visible from any road or roadway or any adjacent lot. Permanent residence in any type of camping equipment is strictly forbidden.

**FF. Outbuildings**

No more than one (1) outbuilding may be constructed on any Lot. Said building must be constructed in a workman-like manner and may not be constructed more than one year prior to construction of the main residence. This building must be enclosed and must conform generally in appearance to the dwelling located on such Lot. All outbuildings are subject to prior written approval from the ACC/Board of Directors. A guest suite/house as provided for in Section AA above, shall not be deemed an Outbuilding as anticipated herein.

**GG. Leasing/Renting**

Leasing/renting of Residences for residential purposes and for business use that complies with 9A herein is allowed by any Owner who is in good standing, who is not delinquent in the payment of assessments and is not in violation of any of the covenants as of the date of the lease. The Owner must provide the Occupant and/or tenant copies of this Declaration, By-Laws or any rules and regulations promulgated thereto. The Owner and each tenant and Occupant shall comply with all provisions of the Declaration, Bylaws or any rules and regulations of the Creekside Crossing Community. The Owner is responsible for violations by any tenants, Occupants and guests of the Residence; notwithstanding the fact that such Occupants are fully liable and may be sanctioned for any such violation. Subject to the provisions herein, short term rentals through companies including, but not limited to services like, VRBO and/or Airbnb, shall be permitted. The Declarant and/or the Board of Directors may require that copies of all leases be provided to the Association.

**HH. Streams and Fishing**

No stream which runs across any Lot may be dammed, or the water therefrom impounded, diverted, or used for any purpose by any person without the prior written consent of the Declarant and/or Board. Fishing shall be subject to all licensing and size limits requirements for the State of Georgia or local jurisdiction. Additionally, the Declarant and/or the Board may establish additional rules and regulations regarding fishing and use of any waterway located on Common Property.

**II. Violations**

If any Structure shall be erected, placed, maintained, or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance, or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the violation, then the Board shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the owner shall not have taken remedial action within fifteen (15) days after the mailing of the aforesaid notice of violation, then the Association shall have the right to exercise Self-Help and all other enforcement tools as set forth in this Declaration, as well as in Georgia law.

## **10. SALE OF LOTS**

An Owner intending to transfer or sell a Lot or any interest in a Lot shall give the Board of Directors written notice of such intention within seven days after executing the transfer or sales documents. As part of the notice, the current Owner shall furnish the Board the name and address of the intended grantee and such other information required by the Board. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven days after receiving title to a Lot, the purchaser or grantee of the Lot shall give the Board written notice of his or her ownership of the Lot. As part of the notice, the new Owner shall furnish the Owner's name, mailing address and such other information required by the Board.

## **11. INSURANCE**

### **A. Hazard Insurance on Common Property**

The Board of Directors shall obtain hazard insurance for all insurable improvements on the Common Property. This insurance shall include, at a minimum, coverage for fire, wind, storm, hail, vandalism, malicious mischief and civil commotion and shall be in an amount sufficient to cover the full replacement cost of such insurable improvements. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

### **B. Association Liability Insurance**

The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, in their capacities as such, with a combined single limit of at least \$1,000,000.00.

### **C. Directors' and Officers' Liability Insurance**

The Board shall obtain a Directors' and Officers' liability insurance policy with a limit of at least \$1,000,000.00.

### **D. Fidelity Insurance**

The Board shall obtain a fidelity bond or dishonesty insurance on Directors, Officers, employees, and other persons handling or responsible for the Association's funds, regardless of whether they are compensated by the Association. If reasonably available, the fidelity bond or dishonesty insurance shall cover at least one-quarter of the annual assessments from all members plus the reserve funds in the custody of the Association at any time during the term of the bond or policy. The bond or policy must provide that it may not be canceled, substantially modified or subject to non-renewal without at least 30-days prior written notice to the Association.

### **E. Additional Association Insurance**

The Board may obtain such additional insurance as it deems appropriate.

### **F. Premiums and Deductibles on Association Policies**

Premiums for all Association insurance shall be a Common Expense. The policies may contain reasonable deductibles. Deductibles shall not be subtracted from the face amount of the policies in determining whether the insurance equals the full replacement cost of the insurable improvements.

### **G. General Insurance Provisions**

In addition to any other terms the Board deems appropriate, all Association insurance shall be governed by the following provisions:

- (1) All policies shall be written with a company licensed to do business in Georgia;

(2) All policies on the Common Property shall be in the name of the Association for the benefit of itself and its members;

(3) The Board shall have exclusive authority to adjust losses under all Association insurance policies;

(4) The insurance carried by the Association shall be primary and shall not be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees; and

(5) All hazard insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if reasonably available.

#### **H. Individual Lot Owner Insurance**

Each Owner shall carry hazard insurance on the Owner's Lot and the structures in an amount sufficient to cover the full replacement cost of all insurable improvements, less a reasonable deductible. Each Owner further covenants and agrees that in the event of damage or destruction to any dwelling or buildings on the Owner's Lot, that the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans which have been approved as required herein. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standards.

### **12. REPAIR AND RECONSTRUCTION AFTER CASUALTY DAMAGE**

#### **A. Common Property**

In the event of damage to or destruction of any structure on the Common Property, if any, the Board of Directors shall arrange for and supervise the prompt repair or reconstruction of such structure, with such improvements or modifications it deems appropriate, unless 80% of the Owners vote not to do so.

##### **(1) Construction Fund.**

Any insurance proceeds collected on a claim against any Association hazard policy and any special assessments collected pursuant to subparagraph (2) below shall constitute a construction fund to be used by the Board for repair or restoration pursuant to this Paragraph.

##### **(2) Proceeds.**

If the proceeds of insurance are not sufficient to defray the Board's estimated or actual costs of repair or reconstruction, including, but not limited to, any professional fees and premiums for construction bonds the Board deems necessary, the Board may levy a special assessment against all Owners without the necessity of a membership vote or compliance with any other requirements for approval of special assessments in this Declaration. Any surplus funds remaining after the repair or reconstruction is completed shall be common funds of the Association to be used as determined by the Board.

#### **B. Lots**

In the event of damage to or destruction of any structure on a Lot, the Owner shall either: (1) within 180 days, repair or reconstruct such structure in accordance with plans and specifications approved by the ACC; or (2) within 60 days, clear the Lot of all debris and sod or landscape all portions of the Lot as approved by the ACC.

### **13. EMINENT DOMAIN**

Whenever any Common Property is taken by, or conveyed in lieu of condemnation to, any authority having condemnation or eminent domain power, the Board of Directors shall give notice thereof to each Owner. If any structure on the Common Property is so taken or conveyed, the Board shall arrange for and supervise the prompt reconstruction of such structure, to the extent sufficient Common Property is available, with such improvements or modifications it deems appropriate, unless 80% of the Owners vote not to do so.

If proceeds from the condemning authority are not sufficient to defray the Board's estimated or actual costs of reconstruction, including, but not limited to, any professional fees and premiums for construction bonds the Board deems necessary, the Board may levy a special assessment against all Owners without the necessity of a membership vote or compliance with any other requirements for approval of special assessments in this Declaration. Any surplus funds remaining after the reconstruction is completed shall be common funds of the Association to be used as determined by the Board.

### **14. EASEMENTS**

#### **A. Easements for Use and Enjoyment**

Every Owner shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his or her Lot, subject to the Association's right to:

- (1) charge reasonable admission and other fees for the use of any portion of the Common Property;
- (2) limit the number of Owners' guests who may use the Common Property;
- (3) provide for the exclusive use and enjoyment of specific portions of the Common Property at certain designated times by an Owner;
- (4) suspend Owners' rights to use the Common Property as set forth in this Declaration;
- (5) borrow money as provided in the Bylaws, subject to the rights, interests, easements, and privileges of the Owners set forth in this Declaration;
- (6) grant permits, licenses, or easements across the Common Property; and
- (7) dedicate or transfer all or any portion of the Common Property by a vote of the Board of Directors.

The Owners' rights and easements granted in this Paragraph are subject to: (1) all other rights of the Association and other Owners set forth in this Declaration, the Bylaws, or the Articles of Incorporation; and (2) all encumbrances and other matters of public record affecting title to the Area of Common Responsibility.

#### **B. Easements for Utilities**

There is hereby reserved to the Association, or its designee, blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repair, replacement, and maintenance of: (a) gas, water, sanitary sewer and electricity services and all other utilities serving any portion of the Community; (b) any water runoff and storm drainage systems; and (c) any other services such as, but not limited to, any telephone and telecommunication systems, master television antenna system, cable television system or security system serving the Community. The Board of Directors has the right to grant a specific license or easement by separate recordable document to any party furnishing such utilities or services.



**C. Easement for Entry.**

There is hereby reserved to the Association and its designee, an easement and right, but not the obligation, to enter onto any Lot for emergency, life-safety, security and safety. The right may be exercised by the Association's Board of Directors, Officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Board. No one exercising the easement and rights granted in this Paragraph shall be liable for trespass, damages, or in any other manner by virtue of exercising such rights. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Lot shall exist.

**D. Easement for Association Maintenance.**

There is hereby reserved to the Association and its designee, an easement and right across all portions of the Community, to allow the Association to fulfill the maintenance obligations described in this Declaration. This easement shall be exercised with a minimum of interference to the quiet enjoyment of the Owner's property, reasonable steps shall be taken to protect the Owner's property, and any Person causing damage to the Owner's property shall repair the damage at its sole expense.

**E. Easement for Street Signs.**

There is hereby reserved to the Association and its designee, an easement and right across all portions of the Community for ingress to, egress from, installation, construction, landscaping and maintenance of street signs for the Community. This easement right shall include, but not be limited to, the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all street signs.

**F. Easement for Entry Features.**

There is hereby reserved to the Declarant and the Association and its designee, an easement and right over and upon each Lot which is bounded by the right-of-way providing primary access to the Community and every other Lot located at the corner of a street intersection in the Community for ingress to, egress from, installation, construction, landscaping and maintenance of entry features and similar streetscapes for the Community. This easement right shall include, but not be limited to, the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around the entry features and the right to grade the land under and around the entry features. Owners shall not alter, remove or add improvements to any entry features on any Lot, or any part of any easement area associated therewith without the prior written consent of the Board of Directors.

**G. Public in General.**

The easements and rights created in this Paragraph do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, nothing set forth herein shall in any way limit or restrict any easements or rights already granted to the public as such easements or rights are previously recorded in the Gilmer County, Georgia land records. The Board of Directors hereby reserves the right to close temporarily, all or any portion of the Community that, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication of such property, or the accrual of any rights to such property, to the general public or to any Person other than the Persons for which such easements are expressly created in this Declaration.

**H. Easements Drainage.**

There is hereby reserved by the Declarant and granted to the Association an easement upon, across, above and under all storm water drainage easements areas as shown on the recorded plats for the Community for access, ingress, egress, installation, alteration, repairing, replacing, and maintaining the storm water drainage systems and related facilities serving the community or any portion hereof. This

easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. In addition, there is hereby reserved to the Declarant and granted to the Association a blanket easement across all Lots for creating and maintaining satisfactory drainage in the Community; provided, however, such easement area shall not include any portion of a Lot within the outer perimeter of the dwelling structure. It is anticipated that increased storm water run-off across lower lying Lots will result from the construction of impervious surface on Lots. Neither the Declarant, the Association nor any builder or Owner shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction on a Lot.

**I. Easements During Declarant Control Period**

Notwithstanding any provisions now or hereafter contained in this Declaration, the Bylaws, Articles of Incorporation, use restrictions, rules and regulations, design guidelines, if any, and amendments thereto, Declarant reserves an easement across the Community to maintain and carry on, upon such portions of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required or convenient for Declarant's development, construction and sales activities related to property hereby and hereinafter subjected to this Declaration or for the development, construction or benefit of any neighboring property including, but not limited to: the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Lot; the right to tie into any portion of the Community with streets, driveways, paths, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a top-on or any other fee for doing so), replace, relocated, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to grand easements over, under, in or on the Community, including without limitation on the Lots, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to covert Lots \*with the consent of the Owner thereof) to Common Property and/or streets; the right to construct recreational facilities, utilities and other improvements on Common Property; the right to carry on sales and promotional activities in the Community; and the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Declarant may use residences, offices of other buildings owners or leased by Declarant as model residences and sales offices without charge.

Declarant expressly reserves an easement to enter upon any Lot and perform landscaping maintenance including, but not limited to, removal of underbrush, trimming, mowing, and debris removal at Declarant's sole expense. Declarant shall not be obligated to perform said landscaping maintenance and the determination may be made on a Lot by Lot basis subject to Declarant's sold discretion.

This Section shall not be amended without the Declarant's written consent until the Declarant Control Period has ended.

**J. Private Streets.**

All Lots shall be subject to a perpetual easement in favor of the Declarant, the Association, and all other Lot Owners for the maintenance, management, repair, landscaping, and non-exclusive use and enjoyment of the private streets and alleys, if any, which are located in the Community and as shown on the Plats, whether said streets and alleys are located on the Common Area, if any, or are located on the Lots. This easement right includes the right of contractors engaged by the Declarant and the Association to enter upon any and all Lots from time to time as necessary in order to perform any of the repair or maintenance work. The owners of the Lots shall not impair access to, or otherwise alter in any way, said streets, alleys or landscaping.

LOT OWNERS HEREIN ACKNOWLEDGE THAT ANY AND ALL MEANS OF INGRESS AND EGRESS TO THE PROPERTY CONVEYED HEREIN ALONG THE STREETS OF THE

SUBDIVISION, AS OUTLINED ON THE PLAT OF SAID SUBDIVISION, ARE PRIVATE STREETS AND ARE NEITHER MAINTAINED BY GILMER COUNTY NOR CONSIDERED PART OF THE ROAD SYSTEM OF GILMER COUNTY. THE RESPONSIBILITY FOR THE UPKEEP AND MAINTENANCE OF THE STREETS SHOWN THEREON LIES WITH THE ASSOCIATION AS PROVIDED FOR HEREIN, AND NOT GILMER COUNTY.

IN NO CASE SHALL GILMER COUNTY BE RESPONSIBLE FOR FAILING TO PROVIDE ANY EMERGENCY OR REGULAR FIRE, POLICE OR OTHER PUBLIC SERVICE TO THE PROPERTY AND/OR OCCUPANTS WHEN THE FAILURE IS DUE TO INADEQUATE DESIGN OR CONSTRUCTION, BLOCKING OF ACCESS ROUTES, OR ANY OTHER FACTORS OUTSIDE THE CONTROL OF THE COUNTY. IN NO CASE SHALL THE COUNTY MAINTAIN ANY PRIVATE STREET.

**K. Slope Control.**

Each Lot shall be subject to an easement for slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity that might interfere with slopes or which might create erosion or sliding problems of which might change, obstruct or retard drainage flow.

**15. AUTHORITY AND ENFORCEMENT**

**A. Compliance with Association Legal Documents**

All Owners, Occupants and their guests shall comply with the Association Legal Documents. The Association, and in an appropriate case, one or more aggrieved Owners, may take action to enforce the terms of the Association Legal Documents directly against all Violators. However, if an Owner's family member, guest or Occupant violates the Association Legal Documents, the Association, in its sole discretion, is permitted to enforce the terms of the Association Legal Documents against: (1) only the Owner; (2) only the violating family member, guest or Occupant; or (3) both the Owner and the violating family member, guest or Occupant. Notwithstanding anything herein to the contrary, the Owner of the Lot is always ultimately responsible for his or her own actions and the actions of all family members, Occupants and guests of such Lot.

Nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed independently for relief from interference with his or her personal or property rights against a Person violating the Association Legal Documents. The Board of Directors may, in its discretion, require the aggrieved Owner or Occupant to independently pursue all available remedies under Georgia law against the Violator before the Association intervenes and commences enforcement action against such Violator.

**B. Types of Enforcement Actions**

In the event of a violation of the Association Legal Documents, the Association shall have the power to take any or all of the following actions separately or simultaneously; provided, however, all suspensions and fines shall comply with the procedures described below and nothing herein shall authorize the Association or the Board to deny ingress and egress to or from a Lot:

- (1) Suspend all Violators' rights to use the Common Property;
- (2) Suspend the voting rights of a violating Owner;
- (3) Impose reasonable fines against all Violators, which shall constitute a lien on the violating Owner's Lot;
- (4) Use self-help to remedy the violation;

(5) Bring an action for permanent injunction, temporary injunction and/or specific performance to compel the Violator to cease and/or correct the violation; and

(6) Record in the Gilmer County land records a notice of violation identifying any uncured violation of the Association Legal Documents regarding the Lot.

**C. Suspension and Fining Procedure**

Except as provided below, before imposing fines or suspending right to use the Common Property or the right to vote, the Association shall give a written violation notice via first class mail to the Violator as provided below.

**(1) Violation Notice**

The written violation notice to the Violator shall:

- (a) Identify the violation, suspension(s) and/or fine(s) being imposed; and
- (b) Advise the Violator of the right to request a violation hearing before the Board of Directors to contest the violation or request reconsideration suspension(s) or the fine(s); and
- (c) Include a Board Member contact name, phone number, address and/or email address which Board Member may be contacted by the Violator in order to request a hearing to contest the violation and/or the fine.

Notwithstanding the Violator's right to request a violation hearing, suspension(s) and/or fine(s) shall commence on the date of the written violation notice, unless a later date is specified in such notice.

**(2) Violation Hearing**

If the Violator submits a written request for a violation hearing within 10 days of the date of the violation notice described above, then the Board of Directors shall schedule and hold, in executive session, a violation hearing. If a Violator fails to timely request a violation hearing, such Violator loses the right to contest the violation and request reconsideration of the suspension(s) and/or the fine(s). If a Violator timely requests a violation hearing, the Violator shall have a reasonable opportunity to address the Board regarding the violation; provided, however, the Board may establish rules of conduct for the violation hearing, including but not limited to, limits on the amount of time one person can speak and limits on the number of participants who may be present at one time. The minutes of the violation hearing shall contain a written statement of the results of such hearing.

**(3) No Violation Notice and Hearing Required**

No violation notice or violation hearing shall be required to:

- (a) impose late charges on delinquent assessments;
- (b) suspend a violating Owner's voting rights if the Violator's Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, in which case suspension of the violating Owner's right to vote shall be automatic and shall continue until the violation no longer exists or the Board of Directors otherwise reinstates such rights in writing;
- (c) suspend a Violator's right to use the Common Property if the Violator's Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, in which case suspension of the Violator's right to use the Common Property shall be automatic

(which shall allow the Association to tow and/or boot a Violator's vehicle located on the Common Property without complying with the Suspension and Fining Procedures described above);

(d) Engage in self-help in an emergency;

(e) Impose fines for each day of a continuing violation, in which case, each day the violation continues or occurs again constitutes a separate violation and fine(s) may be imposed on a per diem basis without any further notice to the Violator; or

(f) impose fines if the same violation occurs again on the same Lot, in which case fine(s) may be imposed on a per diem basis without any further notice to the Violator.

**D. Self-Help**

In addition to all other enforcement rights granted herein, the Board of Directors may elect to enforce any provision of the Association Legal Documents by self-help without the necessity for compliance with the Suspension and Fining Procedures described above.

By way of example and not limitation, the Association or its duly authorized agent shall have the authority to tow vehicles that are in violation of parking regulations and enter a Lot or any portion of the Common Property to abate or remove any structure, thing or condition that violates the Association Legal Documents. Unless an emergency exists, before exercising self-help, the Association shall give the Violator at least two days prior written notice for vehicle issues and ten days prior written notice for all other issues. Such notice shall request that the Violator remove and abate the violation and restore the Lot to substantially the same condition that existed prior to the structure, thing or condition being placed on the Lot and causing the violation. Such removal, abatement and restoration shall be accomplished at the Violator's sole cost and expense. If the same violation occurs again on the same Lot, the Association may exercise self-help without any further notice to the Violator.

**E. Injunctions and Other Suits at Law or in Equity**

All Owners agree and acknowledge that there may not be adequate remedies at law to enforce the Association Legal Documents. Therefore, in addition to all other enforcement rights granted herein, the Association is hereby entitled to bring an action for permanent injunction, temporary injunction and/or specific performance to compel a Violator to cease and desist and/or correct any violation.

**F. Costs and Attorney's Fees for Enforcement Actions**

In any action taken by the Association to enforce the Association Legal Documents, the Association shall be entitled to recover from the Violator, any and all costs incurred by the Association, including but not limited to attorneys' fees actually incurred, all of which shall constitute a lien against the violating Owner's Lot.

**G. Failure to Enforce**

The Board of Directors has the sole discretion to decide which, if any, enforcement action to pursue against each Violator. The failure of the Board to enforce any provision of the Association Legal Documents shall not be deemed a waiver of the right of the Board to do so thereafter. No right of action shall exist against the Association for failure to enforce if the Board of Directors determines that:

(1) the Association's position is not strong enough to justify taking enforcement action;

(2) a particular violation is not of such a material nature as to be objectionable to a reasonable person;

(3) a particular violation is not of such a material nature to justify the expense and resources to pursue or continue to pursue enforcement action;

(4) the aggrieved Owner or Occupant asserting a failure of enforcement has not

independently pursued all available individual remedies under Georgia law; or

(5) the Association enforces only against an Owner for the violation of the Owner's family member, guest or Occupant or the Association does not enforce against the Owner and enforces only against the violating family member, guest or Occupant.

## **16. AMENDMENTS**

### **A. Member Approval Procedure**

Except where a higher vote is required for action under any other provisions of this Declaration, the Bylaws, this Declaration may be amended with the approval of Owners holding 2/3 of the total Association vote present in person or by proxy at a duly called meeting, and the Declarant during the Declarant Control Period. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Gilmer County, Georgia land records. Notwithstanding the foregoing, during the Declarant Control Period, the Declarant shall be empowered to unilaterally amend the Declaration. The Declarant and/or the Board of Directors may, at any time, solely amend this Declaration to adopt the provisions of the Georgia Property Owners' Association Act without vote of the members.

### **B. Default Approval Procedure After Owner Non-Response**

It is recognized that, when Owners fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, important amendments to the Declaration or Bylaws may have no chance of approval. It also is recognized that supermajority voting requirements are important for Owner actions which are as significant as amending this Declaration or the Bylaws. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Owner an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration or Bylaws, but also a realistic mechanism for approving important amendments, without the damaging consequences of Owner non-response.

The Board shall issue notice of all proposed amendments to each Owner. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form or ballot, which complies with the requirements of the Bylaws. Each such consent form or ballot shall give Owners an opportunity to vote for, vote against or abstain from voting on the proposed amendment.

If the amendment is not approved or defeated by sufficient vote within 60 days of the amendment notice described above, then the Board may seek to obtain default approval from Owners under this subparagraph. In such case, the Board shall send default approval notice, by certified mail and to the address consistent with the notice provision of the Bylaws, to all Owners who have not returned consents or ballots on a proposed amendment within that 60-day period. This default approval notice also shall include a consent form or ballot, as provided above, along with a statement that the Owner's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 30 days of the date of such default approval notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within that 30-day period, the Owner shall be deemed to have consented to and approved the amendment.

### **C. Eligible Mortgage Holder Approval**

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

**D. Amendments to Comply with Law or Conform Documents**

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration and the Bylaws to comply with any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between this Declaration, the Bylaws, the Articles, and applicable laws.

**E. Validity of Amendments**

No Person shall be permitted to bring any legal action to challenge the validity of an amendment to this Declaration or the Bylaws more than one year after the recording thereof in the Gilmer County, Georgia land records.

**17. GENERAL PROVISIONS**

**A. Security**

The Association may, but shall not be required to, provide measures or take actions which directly or indirectly improve security in the Community. Each Owner, for himself or herself and his or her Occupants, tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security. The Association has no duty to provide security in the Community. Furthermore, the Association does not guarantee that Owners, Occupants and other people will not commit criminal acts in the Community or that unauthorized people will not gain access to the Community. It shall be the responsibility of each Owner to protect his or her person and property, and all responsibility to provide such security shall lie solely with each Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of measures undertaken.

**B. Dispute Resolution**

Before filing any lawsuit or administrative proceeding against the Declarant, the Association, the Board of Directors, any Officer or Director, or the Association's property manager, an Owner or Occupant shall request in writing and attend a meeting with the Declarant and/or Board to discuss an amicable resolution of any dispute. The Owner or Occupant shall, in such request and at the meeting, make a good faith effort to explain the grievance and resolve the dispute. Upon receiving a request for a meeting, the Declarant and/or Board shall give notice of the date, time and place of the meeting to the person requesting the meeting. The meeting shall be scheduled for a date not less than seven or more than 30 days from the date of receipt of the meeting request, except with the approval of the Owner or Occupant. After the meeting, the Declarant and/or Board shall have a reasonable opportunity to address the Owner's or Occupant's grievance before a suit is filed. After the Declarant Control Period, no judicial or administrative proceeding shall be commenced or prosecuted by the Association against the Declarant unless approved by at least seventy-five (75%) percent of the Total Association Vote.

**C. No Discrimination**

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

**D. Implied Rights**

In addition to express rights, the Association may exercise any right or privilege implied from the existence of any express right or privilege or reasonably necessary to effectuate any such right or privilege.

**E. Electronic Records, Notices and Signatures**

Except for the written notice required to be sent via first class mail pursuant to Paragraph 16(c) of this Declaration, all other records, signatures and notices shall not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented electronically. The relevant provisions of the Bylaws shall govern the giving of all notices required by this Declaration.

**F. Preamble**

The preambles and recitals of this Declaration are by reference made a part of this document as if fully stated herein in their entirety.

**G. Duration**

The covenants and restrictions of this Declaration shall run with and bind the real property in the Community perpetually to the extent provided for in O.C.G.A. §44-5-60.

**H. Severability**

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

**18. PREPARER**

This Declaration was prepared by Ashley Miller Lanier, GADDIS & LANIER, LLC, 3330 Cumberland Blvd, Suite 500, Atlanta, GA 30339.

IN WITNESS WHEREOF, the Declarant herein hereby executes this instrument under seal, this the

26 day of August, 2- 021

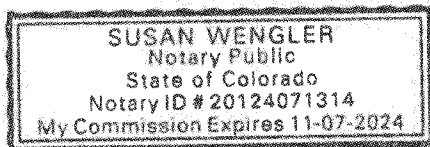
**DECLARANT**

Sworn to and subscribed to before  
me this 26 day of August,  
20 21.

Rohn White

Witness

Susan Wengler  
Notary Public  
[Notary Seal]



**WILDCAT TIMBER II, LLC.**

By: [Signature] (Seal)

Name: Aaron M Patsch

Title: Authorized Representative

[CORPORATE SEAL]



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF SUBMITTED PROPERTY**

***Creekside Crossings - Phase 1***

All that tract or parcel of land lying and being in Land Lots 49, 50, 58, 59, 60, 85, 86, and 95 of the 24th District, 2nd Section, Gilmer County, Georgia, consisting of 357.46 acres more or less, comprising 92 lots along with common areas and streets, and being more fully depicted on a Final Plat of Creekside Crossings – Phase 1 by Chastain & Associates, P.C. (file No. 220B39P1-FP) dated July 15, 2021 and recorded in Plat Book 67, pages 285 through 292 in Gilmer County Clerk of Superior Court.

**EXHIBIT "B"**

**BYLAWS**

**OF**

**CREEKSIDE CROSSING COMMUNITY  
ASSOCIATION, INC.**

*COPYRIGHT ©2021 All rights reserved. These Bylaws may be used only in connection with the ownership and sale of property at Creekside Crossing Subdivision and the operation of the Creekside Crossing Community Association, Inc.*

**PREPARED BY:**

**GADDIS & LANIER, LLC  
3330 CUMBERLAND BLVD, SUITE 500  
ATLANTA, GA 30339  
WWW.GADDISLANIER.COM**

**ASHLEY MILLER LANIER, ESQUIRE**

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## **1. GENERAL PROVISIONS**

### **A. Applicability.**

These Bylaws provide for the self-government of Creekside Crossing Community Association, Inc., in accordance with the Articles of Incorporation filed with the Secretary of State of Georgia, and the Declaration of Covenants, Conditions and Restrictions for Creekside Crossing, recorded in the Gilmer County, Georgia land records ("Declaration"), as amended.

### **B. Name.**

The name of the corporation is Creekside Crossing Community Association, Inc. ("Association").

### **C. Definitions.**

The terms used herein shall have their generally accepted meanings or the meanings specified in Paragraph 2 of the Declaration.

### **D. Membership.**

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

### **E. Entity Members.**

If an Owner is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director or other designated agent of such corporation, manager or member of such limited liability company, partner of such partnership, beneficiary or other designated agent of such trust, or representative of such other legal entity shall be eligible to represent such entity in the affairs of the Association, including, without limitation, serving on the Association's Board of Directors. Such person's relationship with the Association, and any office or directorship held, shall terminate automatically upon the termination of such person's relationship with the entity that is the Owner of the Lot. Termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy may be filled in accordance with these Bylaws.

### **F. Voting.**

Each Lot shall be entitled to one vote, which vote may be cast by the Owner or by a lawful proxy as provided below. When more than one Person owns a Lot, the vote for such Lot shall be exercised as they determine between or among themselves. In no event shall more than one vote be cast with respect to any Lot. If only one co-Owner or only an Owner's spouse or Domestic Partner attempts to cast the vote for a Lot, it shall be conclusively presumed that such vote is authorized for the Lot. If the co-Owners or an Owner and his or her spouse or Domestic Partner disagree about how to cast the Lot's vote, and two or

more of them attempt to cast the Lot's vote, such Persons shall not be recognized and such votes shall not be counted.

If a Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge or if any Owner or Occupant of the Lot is in violation of the Association's Legal Instruments and the voting rights for such Lot have been suspended, the Owner of such Lot shall not be eligible to: (1) vote, either in person or by proxy; (2) act as proxy for any other Owner; (3) issue a written ballot or written consent; (4) be elected to the Board of Directors; or (5) vote as a Director (if serving on the Board of Directors). In establishing the total number of eligible votes for a quorum, a majority, or any other purposes, such Lot shall not be counted as an eligible vote.

**G. Electronic Communications.**

**(1) Records and Signatures.**

Whenever the Association's Legal Instruments require that a document, record or instrument be "written" or "in writing," the requirement is deemed satisfied by an electronic record if the Board of Directors has affirmatively published regulations permitting an electronic record or document as a substitute for a written item.

Whenever these Bylaws require a signature on a document, record or instrument, an electronic signature satisfies that requirement only if: (a) the Board of Directors has affirmatively published regulations permitting an electronic signature as a substitute for a written signature; and (b) the electronic signature is easily recognizable as a secure electronic signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (c) the Board of Directors reasonably believes that the signatory affixed the electronic signature with the intent to sign the electronic document, and that the electronic document has not been modified since the signature was affixed.

**(2) Verification and Liability for Falsification.**

The Board of Directors may require reasonable verification of any electronic signature, document, record or instrument. Absent or pending verification, the Board may refuse to accept any electronic signature or electronic record that, in the Board's sole discretion, is not clearly authentic. Neither the Board of Directors nor the Association shall be liable to any Owner or any other Person for accepting or acting in reliance upon an electronic signature or electronic record that the Board reasonably believes to be authentic, or rejecting any such item which the Board reasonably believes not to be authentic. Any Owner or Person who negligently, recklessly or intentionally submits any falsified electronic record or unauthorized electronic signature shall fully indemnify the Association for actual damages, reasonable attorneys' fees actually incurred and expenses incurred as a result of such acts.

**2. MEMBERSHIP MEETINGS AND ACTIONS**

**A. Annual Meetings.**

The purpose of the annual membership meeting shall be to elect Directors of the corporation and conduct other business that shall come before the meeting. The regular annual membership meeting shall be called in the fourth quarter of each fiscal year with the date, time, and location to be set by the Board of Directors. No annual membership meeting shall be set on a legal holiday.

**B. Special Meetings.**

Special membership meetings may be called for any purposes at any time by the Board of Directors or upon written petition of 25% of the Owners. Any such written petition by the Owners must identify the special meeting purpose on each page of the petition and must be for a purpose on which the Association

membership is authorized to act under these Bylaws or the Declaration. The petition, with original signatures, must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of Owners have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special membership meeting for all lawful purposes stated in the petition, at a date, time and location selected by the President. The Secretary shall send notice of such special membership meeting in accordance with these Bylaws within 30 days of the date of delivery of the petition to the Secretary. Except as provided herein, no business may be conducted at a special membership meeting unless notice thereof is included in the meeting notice.

**C. Notice of Meetings.**

The Secretary shall give notice of each annual or special membership meeting to the record Owner or Owners of each Lot, or to the Lot address, at least 21 days prior to each annual membership meeting and at least seven days prior to each special membership meeting. The notice shall state the date, time and location of the meeting, and for any special meeting, the purpose of the meeting. Giving notice as provided in these Bylaws shall be considered proper service of notice.

**D. Waiver of Notice.**

Waiver of notice of a membership meeting shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any membership meeting, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or represented by proxy, shall be deemed waiver by such Owner of improper notice of the date, time, and location thereof and of any specific business being conducted at such meeting, unless such Owner specifically objects to improper notice at the time the meeting is called to order or the Owner objects to improper notice of the specific business before the business is put to a vote.

**E. Quorum.**

The presence, in person or by proxy at the beginning of the meeting, of Owners entitled to cast 10% of the eligible vote of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. In establishing the total number of eligible votes for a quorum, if a Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, or if the voting rights for a Lot have been suspended, that Lot shall not be counted as an eligible vote.

**F. Adjourned and Reconvened Meetings.**

Any membership meeting may be adjourned, to be reconvened at a later date or time, by vote of the Owners holding a majority of the vote represented at such meeting, regardless of whether a quorum is present. Any business that could have been transacted properly at the original session of the meeting may be transacted at the reconvened session. No additional notice of such reconvened session shall be required if the original session is adjourned for a period not exceeding 10 days.

**G. Proxies.**

Any Owner entitled to vote may do so by written proxy. To be valid, a proxy must be signed, dated, and presented to the Board of Directors at or before registration at the membership meeting for which it is to be used. The Board may accept proxies by whatever means it deems acceptable. A proxy is revoked only if: (1) the Owner giving the proxy attends the meeting in person and requests the proxy back during registration for the meeting (attendance alone does not invalidate the proxy); (2) the Owner giving the proxy signs and delivers to the Board a written statement revoking the proxy or substituting another person as proxy; or (3) before the proxy is exercised, the Board receives notice of the death or incapacity of the Owner

giving the proxy. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

**H. Action Taken Without A Meeting.**

In the Board's discretion, any action that may be taken by the Owners at any annual or special membership meeting may be taken without a meeting by written ballot or written consent as provided below.

**(1) Written Ballot.**

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

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

Except for amendments to recorded Association Legal Instruments that become effective upon recording, and except for actions that specifically set a later effective date, approval of any action taken by written ballot shall be effective upon the receipt of the affirmative vote necessary to take such action.

**(2) Written Consent.**

Approval by written consent shall be valid only when the affirmative written consents received equals or exceeds the vote that would be required to approve the matter at a meeting. Consents shall be filed with the minutes of the membership meetings. Except for amendments to recorded Association Legal Instruments that become effective upon recording, and except for actions that specifically set a later effective date, approval of any action taken by written consent shall be effective 10 days after sending the notice of approval described below.

**(3) Notice to Members of Approval.**

If an action of the Association membership is approved by written ballot or written consent, the Board of Directors shall issue notice of such approval to all Owners.

**I. Order and Conduct of Business.**

The President shall establish the agenda for, and preside at, and the Secretary shall keep the minutes of, all membership meetings. The Board of Directors may establish rules of conduct and the order of business for all membership meetings. When not in conflict with the Declaration, these Bylaws, the Articles of Incorporation or meeting procedures adopted by the Board of Directors, Robert's Rules of Order (latest edition) shall govern all membership meetings. The Board may order the removal of anyone



attending a membership meeting who, in the opinion of the Board, disrupts the conduct of the business at such meeting.

### **3. BOARD OF DIRECTORS**

#### **A. Composition and Selection.**

##### **(1) Number and Eligibility.**

During the Declarant Control Period, the Board shall consist of one (1) to three (3) Directors as determined by Declarant in writing in its sole discretion. After the Declarant Control Period, a Board of Directors composed of three (3) persons who shall govern the affairs of the Association. After the Declarant Control Period, the Directors shall be Owners or spouses of Owners. No Owner and his or her spouse, Domestic Partner or co-Owner may serve on the Board at the same time. If, at the time of an election, a Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, or the voting rights for a Lot have been suspended, no person representing such Lot shall be eligible for election to the Board.

**(2) Directors Appointed by the Declarant.** Notwithstanding anything to the contrary herein, Declarant shall have the exclusive authority to appoint and remove directors and officers until the earlier of: (1) unless Declarant at that time has an unexpired option to add Additional property, the date as of which 100% of the Lots have been conveyed by Declarant to Owners other than a Person constituting the Declarant, or (2) the surrender in writing by the Declarant of the authority to appoint and remove officers and directors of the Association.

**(3) Term of Office.** During the Declarant Control Period, the Declarant shall appoint the Directors each which shall stay in their position until they resign in writing, until the Declarant appoints a replacement, or until the first member election as set forth herein. After termination of the Declarant Control Period, the Association shall call a meeting to be held at which Owners shall elect three (3) directors. If such meeting is not the annual meeting, the directors elected shall serve until the next annual meeting. At the first annual meeting after Declarant has surrendered control of the Association, if three (3) directors are elected, the two (2) directors receiving the highest number of votes shall be elected for terms of two (2) years each and the remaining director shall be elected for a term of one (1) year. At each annual meeting thereafter, a successor shall be elected to serve a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association. At the expiration of a Director's term of office, if a successor cannot be elected for any reason, the existing Director shall continue to hold office and begin serving another term until his or her successor is elected to fill the remainder of such new term, or he or she resigns. The Board of Directors shall have the right to right to re-stagger terms in the event that due to lack of quorum the directors hold over in their position until the next duly called election, resulting in a deviation from the original staggering plan.

##### **(4) Removal of Directors.**

###### **(a) Removal by the Owners.**

After the expiration of the Declarant Control Period, at any duly called membership meeting, for which the notice given called for a vote to remove any Director(s), such Director(s) may be removed with or without cause by Owners holding a majority of the total Association vote. A successor may then and there be elected to fill the vacancy created. Any Director whose removal has been proposed by the Association membership shall be given an opportunity to be heard at the meeting. To ensure a Director has a chance to present a statement to the membership, the Owners' vote to remove a Director cannot be accomplished by written ballot or written consent. For the purpose of this Paragraph, no Owner

may vote more than his or her own vote and the vote of four (4) proxies. However, a Director may vote any number of proxies.

**(b) Removal by the Board of Directors.**

After the Declarant Control Period, any Director may be removed by the vote of the other Association Directors if: (1) he or she is absent from 3 or more meetings of the Board of Directors in any fiscal year; (2) his or her Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge; (3) the voting rights for his or her Lot have been suspended; (4) he or she was appointed by the other Directors to fill a vacancy; or (5) he or she files any legal action, counterclaim or administrative action against the Association, any Director or Officer, in his or her capacity as such, or the Association's managing agent. During the Declarant Control Period, the Declarant may unilaterally remove Directors and appoint replacements.

**(5) Vacancies.**

After the Declarant Control Period, vacancies in the Board of Directors caused by any reason, except the removal of a Director by vote of the Association membership, shall be filled by a vote of the remaining Directors. Unless earlier removed, the successor so selected shall hold office for the remainder of the term of the Director position being filled.

**(6) Compensation.**

Directors shall not be compensated for services performed within the scope of their duties as Association Directors unless authorized by a vote of the Association membership. However, Association Directors may be compensated for performing maintenance or other services as set forth in Paragraph 3A(7) below. Compensation, as may be authorized herein, can include payment but shall not include a waiver of assessments or other Association charges. Directors also may be reimbursed for the expenses incurred in carrying out their duties as Association Directors upon the approval of such expenses by the Board of Directors. The Association may give the Directors nominal gifts or tokens of appreciation for recognition of services performed by them. For purposes hereof, reasonable food and beverages purchased for meetings of the Board shall not be considered compensation.

**(7) Director Conflicts of Interest.**

Nothing herein shall prohibit a Director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as Director, provided that the Director's interest is disclosed to the Board of Directors and the non-interested voting Directors approve such contract. The interested Director shall not count for purposes of establishing a quorum of the Board and, if present at a meeting (if any), must leave the room during the discussion on such matter. Notwithstanding anything herein, the Directors during the Declaration Control Period shall be authorized on behalf of the Association to enter into contracts with the Declarant and its affiliates.

**(8) Nomination.**

Nomination for election to the Board of Directors shall be made from the floor at the meeting, or, if elections are conducted by mail-in ballot or electronically in lieu of a meeting, by the method and date prescribed by the Board. The Board also may appoint a nominating committee to make nominations prior to the meeting. Each nominee shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the election.

**(9) Elections.**

Directors shall be elected at the annual membership meeting or by mail-in or electronic ballot in lieu of such meeting. If elections are held at the annual membership meeting, voting shall be by

written ballot, unless dispensed with by unanimous consent or unless a slate of candidates is unopposed and is accepted by acclamation. The nominees receiving the most votes shall fill the directorships for which elections are held. There shall be no cumulative voting.

**B. Meetings.**

**(1) Regular Meetings.**

Regular meetings of the Board of Directors shall be held at least every three months, at such time and place as determined by the Board. Notwithstanding the foregoing, during the Declarant Control Period, the Board shall not be required to hold regular meetings.

**(2) Special Meetings.**

The President is authorized to call a special Board of Directors meeting. In addition, the President is required to call a special Board meeting at the request of at least a majority of the Directors.

**(3) Notice of Meetings.**

Except as provided in this Paragraph, the President or Secretary shall give each Director at least two (2) days' notice of any Board of Directors meeting. A newly elected Board may meet immediately following their election without notice. Regularly scheduled Board meetings may be held without notice, provided the schedule for such meetings is announced to the Directors.

**(4) Waiver of Notice.**

Waiver of notice of a Board of Directors meeting shall be deemed the equivalent of proper notice. Any Director may, in writing, waive notice of any Board meeting, either before or after such meeting. A Director's attendance at a Board meeting shall be deemed waiver by such Director of improper notice, unless such Director objects to improper notice at the time the meeting is called to order. If all Directors are present at any Board meeting, no notice shall be required, and any business may be transacted at such meeting.

**(5) Quorum and Voting.**

The presence of Directors entitled to cast one-half of the eligible votes of the Board of Directors shall constitute a quorum for the transaction of business. One or more Directors who participate in a Board meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, if all persons participating in such meeting can hear each other. Directors may not participate in Board meetings by proxy.

Unless otherwise provided herein, all decisions of the Board of Directors shall be by majority vote. No Director shall participate in any vote of the Board if, at the time of the vote, his or her Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, or the voting rights for such Lot have been suspended.

**(6) Conduct of Meetings.**

The President shall establish the agenda for, and preside at, and the Secretary shall keep the minutes of, all Board of Directors meetings. The President may establish rules of conduct and the order of business for all Board meetings.

After the Declarant Control Period, meetings of the Board of Directors may be open to all Owners, at the discretion of the Board of Directors as established by Resolution. Except as expressly authorized by the Board, only Directors may participate in discussions or deliberations at the Board meeting.

Notwithstanding the above, the Directors may adjourn any Board meeting and reconvene in executive session, with only the Directors and other people authorized by the Board present. In executive session, the Board may discuss and vote upon personnel matters, litigation in which the Association is or may become involved, delinquent accounts, violations of the Association Legal Documents, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

The Board of Directors may order the removal of any meeting guest who, in opinion of a majority of the Directors present at the meeting, either disrupts the conduct of business at the Board meeting or fails to leave such meeting upon request after an announcement that the Board will reconvene in executive session.

**(7) Action Without a Meeting.**

The Board of Directors can take action outside of a properly called meeting if a majority of the eligible Directors consent in writing to such action. Such signed, written consents must describe the action taken outside a meeting and be filed with the minutes of the Board meetings.

**C. Authority.**

**(1) Powers and Duties.**

The Board of Directors shall manage the affairs of the Association and have every right, power and privilege authorized or implied herein and under Georgia law to effectuate such responsibilities. Unless otherwise required by the Declaration or the Georgia Nonprofit Corporation Code, the Board may perform all of its responsibilities without a vote of the Association membership. The Board may delegate any and all of its functions, in whole or in part, to any other entity. Directors shall discharge their duties and their conduct shall be evaluated in accordance with the business judgment rule as set forth in O.C.G.A. Section 14-3-830. In addition to the duties imposed by these Bylaws, the Board shall have the power to do the following (by way of explanation and not limitation):

- (a) control, manage, operate, maintain, repair, replace, and improve all portions of the Common Property as defined in the Declaration;
- (b) grant and accept permits, licenses, utility easements, leases, and other easements;
- (c) acquire, hold and dispose of tangible and intangible personal property and real property;
- (d) make, delete and amend reasonable rules and regulations governing the use of the Community;
- (e) enforce by legal means the provisions of the Association Legal Documents as provided in the Declaration;
- (f) bring or defend any actions or proceedings which may be instituted on

behalf of or against the Owners concerning the Association or the Common Property;

(g) prepare and adopt an annual budget and establish the contribution from each Owner to the Common Expenses;

(h) establish the means and methods of collecting assessments as provided in the Declaration;

(i) deposit Association funds in a financial depository or institution that the Board of Directors shall approve, or otherwise invest the proceeds in accordance with any limitations set forth in O.C.G.A. Section 14-3-302, and use such funds to administer the Association;

(j) designate the signatories of all Association bank and other financial accounts;

(k) obtain and carry insurance against casualties and liabilities as provided in the Declaration and pay the premium cost thereof;

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

(m) designate, hire, dismiss and contract with the personnel necessary to operate the Association and the personnel necessary to maintain, repair, replace and improve the Common Property and, where appropriate, compensate such personnel; and

(n) purchase equipment, supplies and material to be used by Association personnel in the performance of their duties.

**(2) Management Agent.**

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

**(3) Borrowing.**

The Board of Directors, on behalf of the Association, shall have the power to borrow money to maintain, repair, restore or replace the Area of Common Responsibility without the approval of the Association membership. The Board, on behalf of the Association, also shall have the power to borrow money for other purposes with the approval of Owners holding at least a majority of the vote cast at a duly called membership meeting, or by ballot or written consent. Notwithstanding the foregoing, the Declarant may borrow money on behalf of the Association for any reason without a membership vote during the Declarant Control Period.

**(4) Committees.**

**(a) Nominating Committee.**

The Board of Directors may appoint a nominating committee to nominate

candidates for election to the Board.

**(b) Architectural Control Committee.**

After termination of the Declarant Control Period, the Board of Directors may establish an Architectural Control Committee to administer the architectural controls as provided in the Declaration. In the event said committee is not established, the Board of Directors shall serve in this role.

**(c) Other Committees.**

The Board may establish such other committees as it shall determine, with the powers and duties that the Board of Directors shall authorize.

**(d) Service on Committees.**

Unless otherwise provided by the Board of Directors, the Board in its discretion may appoint and remove the members and chairpersons of each committee.

**D. Liability and Indemnification.**

The Association shall indemnify every Director, officer and committee member (including directors, officers, and committee members appointed by Declarant during the Declarant Control Period) against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such Director, officer or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been a Director, officer, or committee member, whether or not such person is a Director, officer or committee member at the time such expenses are incurred subject to the limitations below.

The Directors, officers, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such Director, officer, or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The Directors and officers shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such Directors or officers may also be members of the Association), and the Association shall indemnify and forever hold each such Director and officer free and clear and harmless against any and all liability to others on account of any such contract or commitment.

Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Director, officer, or committee member, or former Director, officer, or committee member, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and, if obtainable, directors' and officers' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

**4. OFFICERS**

**A. Designation and Qualification.**

After the Declarant Control Period, the principal officers of the Association shall be the President, Vice President, Secretary, and Treasurer. The President, Vice President and Secretary must be Directors, but the Treasurer need not be a Director. Except for the offices of Secretary and Treasurer, which may be held by the same person, no person may hold more than one office simultaneously. During the Declarant

Control Period, if the Declarant chooses to have only one (1) director, that Director shall serve as the President.

**B. Election and Terms of Offices.**

The Board of Directors shall elect the Association officers annually at the first Board meeting following each annual membership meeting. The Association officers shall serve until a successor is elected, the Board removes the officer, or the officer resigns.

**C. Removal of Officers.**

The Board of Directors may remove any officer with or without cause.

**D. Vacancies.**

The Board of Directors may fill any vacancy in any office arising because of death, resignation, removal, or otherwise. Unless earlier removed, the successor so selected shall hold office for the remainder of the term of the officer position being filled.

**E. President.**

The President shall be the chief executive officer of the Association and shall establish the agenda for and preside at all meetings of the membership and the Board of Directors. The President shall have all the general powers and duties that are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code.

**F. Vice President.**

The Vice President shall act in the President's absence and shall have the same powers, duties, and responsibilities as the President when so acting.

**G. Secretary.**

The Secretary shall keep the minutes of all meetings of the membership and the Board of Directors. The Secretary also shall keep all Association books and records and perform all duties incident to the office of the secretary of a corporation organized under the Georgia Nonprofit Corporation Code.

**H. Treasurer.**

The Treasurer shall have the responsibility for the Association's funds and securities. The Treasurer shall keep full and accurate financial records and books of account showing all receipts and disbursements of the Association, prepare all required financial statements and tax returns, deposit all Association funds in such depositories as may be designated by the Board of Directors, and prepare the budget as provided in the Declaration. The Treasurer may delegate all or a part of the above responsibilities to a management agent.

**I. Other Officers.**

The Board of Directors may appoint one or more assistant treasurers, assistant secretaries, or other officers or subordinate officers with such titles and duties as defined by the Board. Any assistant, subordinate or other officers shall not be required to be Directors.

**J. Agreements, Contracts, Deeds, Leases, Etc.**

Except during the Declarant Control Period, at least two officers of the Association (or such other person(s) as may be designated by resolution of the Board of Directors) shall execute all agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association.

**K. Standard of Conduct**

Officers shall discharge their duties and their conduct shall be evaluated in accordance with the business judgment rule described in O.C.G.A. Section 14-3-842.

**5. MISCELLANEOUS**

**A. Notices.**

**(1) Method of Giving Notices.**

Unless otherwise prohibited by these Bylaws or the Declaration, all notices and other communications required by the Association Legal Documents shall be in writing and shall be given by:

- (a) Personal delivery;
- (b) United States mail, first class, postage prepaid;
- (c) Statutory overnight delivery;
- (d) Electronic mail;
- (e) Facsimile; or

(f) A secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message.

**(2) Address For Notices.**

Notices given by one of the methods described above shall be given:

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

(b) If to an Occupant, to the address, electronic mail address or facsimile number that the Occupant has designated in writing with the Secretary or, if no such address has been designated, at the address of the Lot occupied; or

(c) If to the Association, the Board of Directors or the managing agent, to the postal address, facsimile or electronic mail address of the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in writing and filed with the Secretary. The Secretary shall promptly provide notice to all Owners of any such change in address.



**B. Fiscal Year.**

The fiscal year of the Association shall be the calendar year unless otherwise set by resolution of the Board of Directors.

**C. Financial Statements.**

Financial statements shall be prepared annually in the manner provided by the Board of Directors. Financial statements must be made available to Owners and to the holder, insurer or guarantor of any first mortgage on a Lot within 120 days of the end of the Association's fiscal year.

**D. Financial Review.**

A financial review of the Association's accounts shall be performed annually in the manner provided by the Board of Directors. The Board shall give a financial report to the Owners at the annual membership meeting. Thereafter, a majority of the total Association membership may require that an independent accountant audit the Association's accounts, as a Common Expense. The audit, if applicable, shall be made available to the holder, insurer, or guarantor of any first mortgage on a Lot upon submission of a written request therefor.

**E. Amendment.**

(1) **Member Approval Procedure.** Except where a higher vote is required for action under any other provisions of the Declaration or these Bylaws, these Bylaws may be amended with the approval of Owners holding 2/3 of the total Association vote present in person or by proxy at a duly called meeting. Notwithstanding the foregoing, any amendment to the Bylaws shall require the written consent of the Declarant during the Declarant Control Period. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Gilmer County, Georgia land records. Declarant shall have the right to unilaterally amend these Bylaws during the time of the Declarant Control Period. Further, at any time the Board of Directors shall have the authority, without the vote of the membership, to amend these Bylaws to submit to the terms of the Georgia Property Owners Association Act.

(2) **Default Approval Procedure After Owner Non-response.** It is recognized that, when Owners fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, important amendments to the Declaration or Bylaws may have no chance of approval, with the supermajority voting requirements established herein. It also is recognized that supermajority voting requirements are important for Owner actions which are as significant as amending the Declaration or these Bylaws. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Owner an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration or Bylaws, but also a realistic mechanism for approving important amendments, without the damaging consequences of Owner non-response.

The Board shall issue notice of all proposed amendments to each Owner. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form or ballot, which complies with the requirements of these Bylaws. Each such consent form or ballot shall give Owners an opportunity to vote for, vote against or abstain from voting on the proposed amendment.

If the amendment is not approved or defeated by sufficient vote within 60 days of the amendment notice described above, then the Board may seek to obtain default approval from Owners under this subparagraph. In such case, the Board shall send default approval notice, by certified mail, to all Owners who have not returned consents or ballots on a proposed amendment within that 60-day period. This default approval notice also shall include a consent form or ballot, as provided above, along with a statement that the Owner's failure to return an executed consent form or ballot, marked with a vote for, a vote against,

or an abstention from voting on the amendment, within 30 days of the date of such default approval notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within that 30-day period, the Owner shall be deemed to have consented to and approved the amendment.

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

(4) **Amendments to Comply with Law or Conform Documents.** Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend the Declaration and these Bylaws to comply with any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between the Declaration, these Bylaws, the Articles, and applicable laws.

(5) **Validity of Amendments.** No Person shall be permitted to bring any legal action to challenge the validity of an amendment to the Declaration or these Bylaws more than one year after the recording thereof in the Gilmer County, Georgia land records.

**F. Books and Records.**

To the extent provided in O.C.G.A. Section 14-3-1602, and upon written request received at least five business days before the date requested for an inspection, all Association Owners and any Eligible Mortgage Holder shall be entitled to inspect the Association's books and records at a reasonable time and location specified by the Association. The Association can limit the length of time of each inspection, but such time limit shall not be less than two hours per inspection. The Association may impose a reasonable charge, covering the cost of labor, materials and copies of any documents, including but not limited to the customary copy charge and hourly fee of the Association's agent supervising such inspection. To prevent abuse of an Owner's inspection rights, records previously inspected by an Owner are not subject to inspection again by the same Owner more than once per year.

Notwithstanding anything to the contrary, the Board may limit or preclude the inspection of confidential or privileged documents, including but not limited to, attorney/client privileged communication, executive session meeting minutes, and financial records or accounts of other Owners. Minutes of all meetings of the membership and the Board become official Association records when approved by the membership or the Board, as applicable.

**G. Conflicts.**

The duties and powers of the Association shall be those set forth in the Georgia Nonprofit Corporation Code, the Declaration, the Articles of Incorporation, and these Bylaws, together with those reasonably implied to affect the purposes of the Association. If there is a conflict or inconsistency between the Georgia Nonprofit Corporation Code, the Declaration, the Articles of Incorporation or these Bylaws, such laws and documents, in that order, shall prevail.

**H. No Discrimination.**

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

**I. Captions.**

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

**J. Gender and Grammar.**

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

**K. Severability.**

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

## Exhibit C

### ADDITIONAL PROPERTY

#### PROPERTY WHICH MAY BE ADDED IN THE FUTURE

All that tract or parcel of land lying and being within eight miles of the outer perimeter boundary of that certain tract or parcel of land more particularly described in Exhibit A thereto which may include, but not be limited to, the following property:

##### "Pfister Tract"

All that tract or parcel of land lying and being in Land Lots 25, 26, 27, 46, 47, 48, 61, 62, 63, 82, 83, 84, 98, and 99 of the 24th District, 2nd Section, Gilmer County, Georgia, and also in Land Lot 81 of the 24th District, 2nd Section, Gordon County, Georgia consisting of 1069.35 total acres more or less, and being more fully depicted on a Retracement Survey for Wildcat Timber II, LLC by Chastain & Associates, P.C. (file No. 220B39) dated March 17, 2020 and recorded in Plat Book 65, page 144 in Gilmer County Clerk of Superior Court (as conveyed in Deed Book 2249, page 286) and also in Plat Book 57, page 67 in Gordon County Clerk of Superior Court (as conveyed in Deed Book 2328, page 145).

##### "Legends Tracts"

###### Tract 1:

All that tract or parcel of land lying and being in Land Lots 50, 58, and 59 of the 24th District, 2nd Section, Gilmer County, Georgia, consisting of 187.84 total acres more or less, and being more fully depicted on a Survey for Paul F. Tipton, Scott Tipton, and Carolyn Ippisch by Lane S. Bishop and Associates dated February 19, 2004 and recorded in Plat Book 42, page 112 in Gilmer County Clerk of Superior Court (as conveyed in Deed Book 2311, page 431).

###### Tract 2:

All that tract or parcel of land lying and being in Land Lots 47, 48, 49, 60, 61, 62, 84, 85, and 96 of the 24th District, 2nd Section, Gilmer County, Georgia, consisting of 729.43 total acres more or less, and being more fully depicted on a Survey for The Foundation Land Company, LLC by Chastain & Associates, P.C. (file No. 206A07) dated January 26, 2006 and recorded in Plat Book 48, pages 6 through 12 in Gilmer County Clerk of Superior Court (as conveyed in Deed Book 2311, page 431).

##### "Wildcat 5 North Tract"

All that tract or parcel of land lying and being in Land Lots 85, 86, and 95 of the 24th District, 2nd Section, Gilmer County, Georgia, consisting of 123.90 acres more or less, and being more fully depicted on a Division Survey for Wildcat Timber II, LLC by Chastain & Associates, P.C. (file No. 218H39C) dated March 30, 2021 and recorded in Plat Book 67, page 2 in Gilmer County Clerk of Superior Court (as conveyed in Deed Book 2404, page 316).