

DECLARATION OF PROTECTIVE COVENANTS
AND PERMANENT MEMBERSHIP FOR SADDLE CREEK

WHEREAS, the following are the eighteen Plats for Saddle Creek Subdivision (collectively referred to as the "Saddle Creek Subdivision Plats"), each such Plat being recorded in the Fulton County, Georgia Records:

- (1) the Final Plat for Saddle Creek, Unit One, recorded on January 23, 1975 in Plat Book 106, Page 107, consisting of thirty-five (35) Lots;
- (2) the Final Plat for Saddle Creek, Unit Two, recorded on May 3, 1974 in Plat Book 105, Page 18, consisting of six (6) Lots;
- (3) the Final Plat for Saddle Creek, Unit Three, recorded on April 30, 1975 in Plat Book 107, Page 75, consisting of thirty-three (33) Lots;
- (4) the Final Plat for Saddle Creek, Unit Four, recorded on August 5, 1975 in Plat Book 108, Page 14, consisting of four (4) Lots;
- (5) the Final Plat for Saddle Creek, Unit Six, recorded on October 6, 1976 in Plat Book 110, Page 16, consisting of seventeen (17) Lots;
- (6) the Final Plat for Saddle Creek, Unit Eight, recorded on March 3, 1979 in Plat Book 115, Page 1, consisting of fifty-two (52) Lots;
- (7) the Final Plat for Saddle Creek, Phase One, Unit Five, recorded on June 21, 1977 in Plat Book 111, Page 27, consisting of twenty-nine (29) Lots;
- (8) the Final Plat for Saddle Creek, Phase One, Unit Seven, recorded on July 14, 1977 in Plat Book 111, Page 39, consisting of thirty-one (31) Lots;
- (9) the Final Plat for Saddle Creek, Phase One, Unit Nine, recorded on June 6, 1980 in Plat Book 119, Page 11, consisting of forty-seven (47) Lots;
- (10) the Final Plat for Saddle Creek, Phase Two, Unit Five, recorded on January 22, 1976 in Plat Book 108, Page 119, consisting of nine (9) Lots;
- (11) the Final Plat for Saddle Creek, Phase Two, Unit Seven, recorded on December 12, 1977 in Plat Book 93, Page 63, consisting of two (2) Lots;
- (12) the Final Plat for Saddle Creek, Phase Two, Unit Nine, recorded on June 22, 1982 in Plat Book 126, Page 74, consisting of fifty-four (54) Lots;
- (13) the Final Plat for Saddle Creek, Phase Three, Unit Five, recorded on May 4, 1976 in Plat Book 109, Page 51, consisting of thirty-nine (39) Lots;
- (14) the Final Plat for Saddle Creek, Phase Three, Unit Seven, recorded on January 17, 1979 in Plat Book 114, Page 81, consisting of thirty-nine (39) Lots;
- (15) the Final Plat for Saddle Creek, Phase Three, Unit Nine, recorded on April 5, 1983 in Plat Book 129, Page 52, consisting of forty-four (44) Lots;
- (16) the Final Plat for Saddle Creek, Phase Four, Unit Seven, recorded on September 13, 1985 in Plat Book 142, Page 96, consisting of twenty-one (21) Lots;
- (17) the Final Plat for Saddle Creek, Phase Four, Unit Nine, recorded on June 22, 1984 in Plat Book 135, Page 104, consisting of twenty-six (26) Lots;
- (18) the Final Plat for Saddle Creek, Phase Five, Unit Seven, recorded on December 10, 1985 in Plat Book 144, Page 49, consisting of fourteen (14) Lots; and

THIS DECLARATION SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

WHEREAS, Lot Owners within Saddle Creek Subdivision in Fulton County, Georgia, who have executed this Declaration, are the Owners of that certain real property described in signature page(s) affixed hereto and as are listed on Exhibit "A" attached hereto and incorporated herein by reference and desire to subject their Lot and the Property to the terms and provisions of this Declaration of Protective Covenants and Permanent Membership for Saddle Creek ("Declaration"), and do hereby subject their Lot and the Property to continuing Permanent Membership in Saddle Creek Homeowners Association, Inc. ("Association") and authorize and direct the Board of Directors of the Association to subject the Common Property, as described in Exhibit "C" as attached hereto and incorporated herein by this reference, to the terms and provisions of this Declaration; and

WHEREAS, the undersigned officers of the Association desire to approve this Declaration and Permanent Membership in the Association on behalf of the Association; and

WHEREAS, the Lot Owners who have executed this Declaration do hereby consent, on behalf of each such Owner, Owner's successors, successors-in-title, heirs, and assigns, that such Owner's Lot shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, easements, and restrictions contained in this Declaration, as a Permanent Member of the Association, all of which shall run with the title to Owner's Lot and shall be binding upon all persons having any right, title, or interest in Owner's Lot, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Each Owner understands and acknowledges that, by submitting Owner's Lot to Permanent Membership in the Association, each Owner is hereby subjecting Owner's Lot to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with the Declaration. Each Owner does further consent to the submission of the Common Property (as defined in the Declaration) to this Declaration; and

WHEREAS, these preambles are incorporated into the Declaration; and

NOW, THEREFORE, the undersigned officers of the Association, and all Lot Owners who have executed this Declaration, hereby declare that all of the Property described herein and in Exhibit "A" and Exhibit "C" shall be held, sold and conveyed subject to this Declaration, which is for the purpose of enhancing and protecting the desirability and attractiveness of, and which shall run with, the Property, and be binding on all parties having any right, title or interest in the Property or any part thereof, and shall, subject to all limitations herein provided, inure to the benefit of each Owner of any portion of the Property, his heirs, grantees, distributees, successors, successors-in-title and assigns and to the benefit of the Association.

After Recording: Weissman, Nowack, Curry & Wilco, P.C.
Return to One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326 (JTL)

Instructions to Clerk:
Cross-Reference to Deed Books set forth below;
Index each signatory in Grantor Index;
Index Saddle Creek Homeowners Association, Inc. in Grantor and Grantee Indexes

The Common Property (Exhibit "C") and all Lots are located in
Land Lots 401, 402, 436, 437, 438, 439, 440, 441, 474, 475 and 476
1st District, 2nd Section, Fulton County, Georgia

STATE OF GEORGIA
COUNTY OF FULTON

Cross-Reference:
Deed Book 10975, Page 095
Plat Book 106, Page 107
Plat Book 105, Page 018
Plat Book 107, Page 075
Plat Book 108, Page 014
Plat Book 110, Page 016
Plat Book 115, Page 001
Plat Book 111, Page 027
Plat Book 111, Page 039
Plat Book 119, Page 011
Plat Book 108, Page 119
Plat Book 093, Page 063
Plat Book 126, Page 074
Plat Book 109, Page 051
Plat Book 114, Page 081
Plat Book 129, Page 052
Plat Book 142, Page 096
Plat Book 135, Page 104
Plat Book 144, Page 049

<p>DECLARATION OF PROTECTIVE COVENANTS AND PERMANENT MEMBERSHIP FOR SADDLE CREEK</p>
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- LIST OF EXHIBITS -

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CONSENT FORM – SUBMIT LOT AND AMEND BYLAWS (SAMPLE) "D"
CONSENT FORM – DO NOT SUBMIT LOT BUT AMEND BYLAWS ONLY (SAMPLE) "E"
AMENDED AND RESTATED BYLAWS "F"

DECLARATION OF PROTECTIVE COVENANTS
AND PERMANENT MEMBERSHIP FOR SADDLE CREEK

1. NAME.

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

2. DEFINITIONS.

Generally, 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 Act or the Georgia Nonprofit Corporation Code. Unless the context otherwise requires, certain terms used in this Declaration shall be defined as set forth in Exhibit "B" attached hereto and incorporated herein by this reference.

The words member and membership, which do not begin with a capital "M" when used within Paragraph 4 of this Declaration, shall not have the same meaning as the following defined terms: Member, Membership, Permanent Member, and Permanent Membership.

3. LOCATION, PROPERTY DESCRIPTION, AND PLATS.

The Property subject to this Declaration and the Act is located in Land Lots 401, 402, 436, 437, 438, 439, 440, 441, 474, 475 and 476 in the 1st District, 2nd Section, Fulton County, Georgia, being more particularly described in the signatory portion of this Declaration and in Exhibits "A" and "C" attached to this Declaration, which exhibits are specifically incorporated herein by this reference. For purposes of property description and submission of the Owners' Lots set forth herein only, the Saddle Creek Subdivision Plats are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

4. EFFECTIVE DATE.

(a) The membership in the Association that existed prior to the Effective Date of this Declaration. The Bylaws of Saddle Creek Homeowners Association, Inc. that were in effect prior to the Effective Date of this Declaration (herein referred to as "Original Bylaws") provide that membership in the Association shall be voluntary and shall include the following three classes of membership: (1) patron members, (2) recreational members, (3) and guest members. This Declaration and the Bylaws attached hereto as Exhibit "F" replace such three classes of voluntary membership with one class of Permanent Membership. Since the Original Bylaws provide that membership in the Association shall be voluntary, the Original Bylaws must therefore be amended in order to replace all provisions allowing voluntary membership with provisions requiring Permanent Membership. The Original Bylaws grant patron members and recreational members, but not guest members, the right to vote for amendments to the Original Bylaws. Specifically, Article IX, Section 2 of the Original Bylaws states in part that the Original Bylaws may be amended by the

affirmative vote or written consent, or any combination thereof, of members representing a majority of the total Association vote, after having received thirty (30) days advance written notice of the proposed amendment, and additionally provide that various provisions within the Original Bylaws may only be amended by two-thirds of the patron members and that other provisions may only be amended by two-thirds of the recreational members. The Bylaws attached hereto as Exhibit "F" accordingly require the consent of at least two-thirds of the patron members and two-thirds of the recreational members, which constitute a majority of all members of the Association prior to the Effective Date of this Declaration, in order to replace the three classes of voluntary membership with one class of Permanent Membership.

(b) Effective Date. This Declaration and the Bylaws attached hereto as Exhibit "F" shall not be effective, whether or not recorded, until and unless the following four conditions have been satisfied: (1) at least One Hundred and Seventy (170) Owners have executed this Declaration; (2) at least two-thirds of the patron members and two-thirds of the recreational members, as identified within Paragraph 4(a) above, have executed this Declaration or consented to the Amended and Restated Bylaws attached hereto as Exhibit "F;" (3) two Association officers have executed this Declaration; and (4) this Declaration and the signature pages attached hereto have been recorded in the Fulton County, Georgia Records. The date on which all of the above four conditions have been satisfied shall constitute the "Effective Date" of this Declaration and the "Effective Date" of the Bylaws attached hereto as Exhibit "F."

A consent form for patron members and recreational members to consent to the Amended and Restated Bylaws, but not to submit their Lots to this Declaration, is attached hereto as Exhibit "E."

The membership of patron members and recreational members who have not submitted their Lots to this Declaration and Permanent Membership prior to the Effective Date shall terminate as of the Effective Date. Any Owner of a Lot within Saddle Creek may submit the Owner's Lots to this Declaration after the Effective Date and thereby become a Member of the Association, as provided within Paragraph 4(c) below.

The membership of guest members shall terminate as of the Effective Date.

(c) Additional Property and Consents to this Declaration after the Effective Date. All Lots shown on the Saddle Creek Plats which have not been submitted to the terms and provisions of this Declaration as of the Effective Date shall be part of the Additional Property. Submission to this Declaration of a Lot within the Additional Property may be accomplished after the Effective Date by (1) a consent form being executed by the Owner of the Lot, (2) the consent form being executed by at least one officer of the Association, (3) the consent form being recorded by the Association within the Fulton County, Georgia Records; and (4) the Owner paying the initiation fee set forth within Paragraph 4(d) below if the Owner executes the consent form on or after six months from the Effective Date. A sample consent form (which may be varied by the Association) is attached hereto as Exhibit "D" and incorporated herein by this reference.

(d) Initiation Fee. Beginning six months after the Effective Date, the Owner of a Lot shall be required to pay an initiation fee up to \$1,000.00 to the Association as a condition to

submitting the Owner's Lot to this Declaration. Each calendar year the Board of Directors shall determine the amount of the initiation fee (up to \$1,000.00) that will be charged during such calendar year.

5. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

(a) Member. Each Person who is the record owner of a fee or undivided fee interest in any Lot, and whose Lot is submitted to this Declaration by execution hereof or by a consent form (as set forth within Paragraph 4(c) above) recorded in the Fulton County, Georgia land records, shall be a Permanent Member of the Association. (The terms Permanent Member and Member, and Permanent Membership and Membership, shall have the same meanings since there shall be only one category of Membership as of the Effective Date of this Declaration.) Membership shall be appurtenant to and may not be separated from ownership of any such Member's Lot. Membership shall be transferred automatically by conveyance of the Member's Lot and may be transferred only in connection with the transfer of title. The definition of Member is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's Membership. There shall be no more than one (1) Membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Any rights and privileges of membership, including the right to vote and to hold office, may be exercised by Members or their spouses, but in no event shall more than one (1) vote be cast or office held for each Lot owned by a Member.

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

(c) Recreational Facilities. Members shall be entitled to the use of all Association recreational facilities including the swimming pool, clubhouse, playground, tennis courts and related facilities, subject to this Declaration, the Bylaws and the rules and regulations of the Association. Any Member may delegate his or her right of use and enjoyment in and to the Common Property and recreational facilities located thereon to the members of his or her family, his or her tenants, guests; provided, however, any Owner of a Lot within Saddle Creek who has not submitted the Owner's Lot to this Declaration shall not be permitted to use the Common Property and recreational facilities thereon.

(d) Seasonal Users. Seasonal use passes for the Common Property, including the recreational facilities thereon, may be offered in the discretion of the Board to persons who do not own a lot within Saddle Creek. Seasonal use passes shall be contingent upon payment of a seasonal due in an amount established by the Board and in compliance with the Declaration, Bylaws and rules and regulations of the Association. The seasonal due following the Effective Date of this Declaration shall be \$300.00 and may thereafter be increased or decreased by the Board; provided, however, the seasonal due shall at no time be less than the amount of the annual assessment in effect during the fiscal year in which a seasonal use pass is issued. Seasonal use passes may be regulated,

limited or discontinued by the Board in its discretion. Holders of seasonal use passes are not Members and shall not be entitled to vote on any matter. If the holder of a seasonal use pass shall fail to pay a seasonal due by the date owed, the Board may revoke and/or suspend such person's use of the Common Property without notice.

6. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

(a) to make and to enforce reasonable rules and regulations governing the use of the Common Property in accordance with this Declaration and the Bylaws;

(b) to enforce the provisions of this Declaration, the Bylaws, and any rules and regulations provisions concerning the Common Property, by imposing reasonable monetary fines, by using self-help and suspending use and voting privileges and services paid for as a Common Expense, as provided herein and in Section 44-3-223 of the Act and by any other legal or equitable means. Any fines imposed shall be considered an assessment against the Member's Lot.

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

(d) to determine, in its discretion, the terms of use of the Common Property by Seasonal Members and by the guests of Permanent Members;

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

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

(g) to represent the Members in dealing with governmental entities as to the Common Property and other matters;

(h) to acquire, hold and dispose of tangible and intangible personal property and real property;

(i) the Board of Directors shall have the power to assess pursuant to Section 44-3-225(a) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Paragraph shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

7. ASSESSMENTS.

(a) General. The Association shall have the power to levy assessments against all Members as provided herein. The assessments provided for herein shall be used for the general purposes of maintaining, repairing, replacing, insuring, managing, operating and, in the Board's discretion, improving the Common Property and Association easements, if any, enforcing this Declaration, paying for utility services serving the Common Property and easements, if any, maintaining a reserve fund for future Common Property, repairs or improvements, and promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Members and Occupants of Member, as may be more specifically authorized from time to time by the Board. Except as otherwise provided herein, each Member's Lot is hereby allocated equal liability for assessments.

(b) Creation of Lien and Personal Obligation For Assessments. Each Member, by execution hereof or by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration and the Act.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, in the maximum amount permitted under the Act, shall be a charge on such Member's Lot and shall be a continuing lien upon the Member's Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Member's Lot at the time when the assessment fell due. Each Owner of a Member's Lot 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.

The lien provided for herein shall have priority as set forth in the Act. The sale or transfer of any Member's Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for assessments as to payments coming due prior to such sale or transfer. No sale or transfer shall relieve such Member or Member's Lot from liability for any assessments thereafter coming due or from the lien thereof.

(c) Annual Assessment; Computation of Operating Budget. The annual assessment for the first fiscal year following the Effective Date of this Declaration shall be Three Hundred Dollars and no/100 dollars (\$300.00). Prior to the beginning of each upcoming fiscal year thereafter, and subject to the limitations set forth within Paragraph 7(d) below, the Board of Directors shall (1) prepare a budget covering the estimated costs of maintaining and operating the Common Property and other expenses of the Association for the upcoming fiscal year and shall fix the amount of the annual assessment for each upcoming fiscal year, and (2) deliver a copy of the budget and notice of the annual assessment to each Member's Lot at least thirty days prior to the beginning of the upcoming fiscal year. If the Board fails for any reason to either (1) prepare a budget or fix the amount of the annual assessment for the upcoming fiscal year or (2) deliver the budget and notice of the annual assessment to each Member's Lot, the budget and annual assessment amount in effect for the current fiscal year shall continue for the upcoming

fiscal year. The fiscal year of the Association may be set by Board resolution or, in the absence thereof, shall be the calendar year. The budget may reflect anticipated dues to be received from holders of seasonal use passes as provided within Paragraph 5(d) of this Declaration.

(d) Maximum Annual Assessment Increase. The Board may increase the annual assessment for each upcoming fiscal year up to five percent (5%) of the current fiscal year. The Board may alternatively state within the notice of the annual assessment for the upcoming fiscal year that the Board proposes to increase the annual assessment to an amount in excess of such five percent (5%). Such proposed increase in excess of five percent (5%) shall not become effective unless approved by a majority of the Members, by vote or written consent, within thirty days after the beginning of the upcoming fiscal year. If the proposed increase in excess of five percent (5%) is not so approved by the majority of the Members, the Board shall, after such thirty day period, fix the assessment for that fiscal year (up to a maximum of five percent (5%) of the previous fiscal year) and shall thereafter deliver to each Member's Lot a notice of annual assessment stating the assessment amount for that fiscal year.

(e) Special Assessments. In addition to the annual assessment provided for above, the Board may at any time levy a special assessment for any purpose against all Members, notice of which shall be sent to such Members; provided, however, prior to becoming effective, any special assessment first shall be approved by the affirmative vote of at least two-thirds (2/3) of eligible Members present or represented by proxy at a duly called meeting, notice of which shall specify that purpose, and/or by ballot or consent specifying that purpose.

(f) Capital Budget and Reserve Contribution. As part of the annual budget and assessment, the Board may fix and establish an annual reserve or capital contribution, in an amount sufficient to permit meeting the projected capital and future needs of the Association.

(g) Delinquent Assessments. All assessments and related charges not paid on or before the due date established by the Board shall be delinquent, and the Member shall be in default.

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

(ii) The Association, acting through the Board, may suspend the Member's right to use the Common Property if amounts remain unpaid for more than thirty (30) days, and institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, and the Act, if the amounts remain unpaid for more than sixty (60) days.

(iii) If part payment of assessments and related charges is made, the amount received shall be applied first to costs and attorneys fees, as applicable, and then, in order, to late charges, interest, delinquent assessments, and current assessments.

(iv) No Member may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever.

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

8. MAINTENANCE.

(a) Association's Responsibility. The Association shall maintain and keep in good repair the Common Property and any easements of the Association. This maintenance shall include, without limitation, maintenance, repair, and replacement subject to any insurance then in effect, of all landscaping grass areas, paving and other improvements situated on the Common Property. The Association shall also maintain and keep in good repair all water and sewer pipes or facilities which serve the Common Property, to the extent that such pipes and facilities are not maintained by public, private, or municipal utility companies.

(b) Member's Responsibility. Each Member shall maintain and keep his or her Lot and dwelling in good repair, condition and order, including, but not limited to, mowing, edging, trimming and keeping planting beds in good condition. In addition, each Member shall maintain any public right of way located between the Member's Lot and the curb of the street(s) bordering such Lot.

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

Unless the Board determines that an emergency exists, the Member shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that: (i) an emergency exists or (ii) that an Member has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Member's sole cost and expense, and such costs shall be an assessment and lien against the Member and the Lot. If, during the course of performing its maintenance responsibilities hereunder, the Association discovers that maintenance, repair or replacement is required of an item which is the Member'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 Member and at the Member's expense, without prior notice to the Member, such being deemed an emergency situation hereunder.

The Board may alternatively enforce this Paragraph through monetary fines against the Member or Occupant of the Lot, and each day the maintenance, repair, or replacement is not completed shall constitute a separate violation for which fines may be assessed on a daily basis.

9. USE RESTRICTIONS.

Each Member shall be responsible for ensuring that the Member's family, guests, tenants and Occupants comply with all provisions of this Declaration, the Bylaws and the rules and regulations of the Association.

(a) Residential Use. Each Member's Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Member's Lot, including business uses ancillary to a primary residential use, except that the Member may conduct such ancillary business activities within that dwelling so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the dwelling; (b) the business activity does not involve visitation of the Member's Lot by employees, clients, customers, suppliers or other business invitees; provided, however, this provision shall not preclude delivery of materials or items by United States Postal delivery or by other customary parcel delivery services (U.P.S., Federal Express, etc.); (c) the business activity conforms to all zoning requirements for the Member's Lot; and (d) the business activity does not increase traffic in Saddle Creek.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

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

(c) Subdivision of Lots and Outbuildings. No Lot owned by a Member may be subdivided into a smaller Lot and no structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected or used by any Member, at any time, either temporarily or permanently, except with written Board approval.

(d) Use of Common Property. There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property without prior written Board consent, except as specifically provided herein or in the Association's rules and regulations.

With prior written Board approval, and subject to any restrictions imposed by the Board, a Member may reserve portions of the Common Property for use for a period of time as set by the Board. Restrictions may differ based on the classification of membership. Any such Member or Members who reserve a portion of the Common Property hereunder assume, on behalf of himself/herself/themselves and his/her/their guests, occupants and family, all risks associated with the use of the Common Property and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

Each Member transfers and assigns to any lessee who has exclusive use of the Member's home, for the term of the lease, any and all rights and privileges that the Member has to use the Common Property, including, but not limited to, the use of any and all recreational facilities.

(e) Prohibition of Damage, Nuisance and Noise. Noxious, destructive, offensive or unsanitary activity shall not be carried on upon the Common Property or Members' Lots. No Member or Occupant may use or allow the use of the Member's Lot or the Common Property at any time, in any way, which may endanger the health or property of other Persons, unreasonably annoy, disturb or cause embarrassment or discomfort to other Members or Occupants, or, in the Board's discretion, constitute a nuisance. **The intention of this provision is to grant the Association and aggrieved Members and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment.** In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

- (i) Any fighting, raucous behavior or insobriety either outside of a Member's Lot at any time or within a Member's Lot if such conduct can be heard in the normal course of activities in any other Lot(s)
- (ii) The use of any alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations either outside of a Member's Lot at any time or within a Lot if such sounds can be heard or vibrations felt in the normal course of activities in any other Lot(s);
- (iii) Any threatening or intimidating conduct towards any resident, guest or pet at the Property;
- (iv) Any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property within Saddle Creek or which creates any threat to health or safety of any other resident or pet;

- (v) Any excessively loud play or playground activities either outside of a Member's Lot at any time or within the Lot if such conduct can be heard in the normal course of activities in any other Lot (s);
- (vi) Any conduct which creates any noxious or offensive odor either outside of a Member's Lot at any time or within the Lot if such odors can be detected in the normal course of activities in any other Lot (s);
- (vii) Any similar action or activity outside of a Member's Lot, or which occurs inside the Lot but which interferes with the peaceful use and enjoyment of other Lots or the Common Area by any other Member, members of his or her family, guests, invitees, or Occupants of his or her Lot; or
- (viii) Any construction or similar activities on a Member's Lot which can be heard in other Lots between the hours of 9:00 p.m. and 7:30 a.m.

However, nothing herein shall be construed to affect the rights of an aggrieved Member to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise shall exist by an aggrieved Member or Occupant against the Association for failure to enforce the provisions hereof if the aggrieved Member or Occupant has not personally pursued all available remedies against the violator for redress provided under Georgia law.

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

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

No Member or Occupant may keep, breed or maintain any pet for any commercial purpose. Dogs must be kept on a leash or be under the physical control of a responsible person at all times while outdoors in unfenced areas. Feces left by pets upon the Common Property, on Lot or in any dwelling, including the pet Member's Lot or dwelling, must be removed promptly by the Member of the pet or the person responsible for the pet.

Any Member or Occupant who keeps or maintains any pet on any portion of the Properties shall be deemed to have indemnified and agreed to hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Properties.

(h) Parking. No Member or Occupant may keep or bring onto the Property more than a reasonable number of vehicles per Lot at any time, as determined by the Board; provided, however, the Board may adopt reasonable rules limiting the number of vehicles which may be parked at the Property. Vehicles only may be parked in garages, designated parking spaces or other areas authorized in writing by the Board.

Disabled and stored vehicles are prohibited from being parked on a Member's Lot, 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 on a Member's Lot, other than in a garage, for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, buses, trucks with a load capacity of one (1) ton or more, recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes and containing visible evidence of commercial use (such as tool boxes, tool racks, business decals or signs, or other visible business evidence), and vehicles with commercial writings on their exteriors are also prohibited from being parked on a Member's Lot, except: (1) in garages or as otherwise approved by the Board, or (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.

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

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Member's or Occupant's Lot or dwelling, is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing or booting activity. 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. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

(i) Abandoned Personal Property. Personal property, other than an automobile as provided for in subparagraph (h) of this Paragraph, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Property without prior written Board permission. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or

on the front door of the property Member's dwelling, if known, the Board may remove and either discard or store the personal property in a location which the Board may determine. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the Member; provided, however, in such case, the Board shall give the Member, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(j) Signs. Except as may be required by legal proceedings, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on a Member's Lot without the prior written consent of the Board or its designee, except that two (2) professional security signs not to exceed six (6") inches by six (6") inches each in size may be displayed from within a dwelling on the Lot and one (1) professionally lettered "For Rent" or "For Sale" sign not to exceed two (2') feet by two (2') feet in size may be displayed from within a dwelling on a Lot being offered for sale or for lease. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. The Board also shall have the authority to adopt regulations permitting temporary signs on Members' Lots announcing open houses, births, birthdays or other events for limited periods of time.

(k) Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from a Member's Lot and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Property, temporarily or otherwise, except as provided herein. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection. The Board may establish regulations regarding placement of trash cans for pick-up.

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

(m) Architectural Standards and Controls. No Member may construct a dwelling upon the Member's Lot or make a substantial exterior change, alteration or construction on the Member's Lot (including painting, regrading or significant landscaping modifications) without first obtaining written approval of the Board. The Board shall have the discretion to determine whether an exterior change, alteration or construction is substantial.

The standard for approval by the Board shall include, but not be limited to: (1) aesthetic consideration, (2) materials to be used, (3) harmony with the external design of the existing buildings, Lots and structures, and the location in relation to surrounding structures and topography, and (4) any other matter deemed to be relevant or appropriate by the Board.

Applications for approval of any such architectural modification shall be in writing and shall provide such information as the Board may reasonably require. If the Board fails to approve or to disapprove such application within forty-five (45) days after the application and such additional information as the Board may reasonably require shall have been submitted, its approval will not be required and this Paragraph will be deemed complied with, unless such structure or improvement otherwise is in violation of the Declaration, the Bylaws, the design standards, the Association's rules and regulations, or applicable zoning ordinances.

Each Member acknowledges that the directors on the Board of Directors will change from time to time and that interpretation, application and enforcement of architectural standards may vary accordingly. The approval of the Board of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval of the Board, shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

All improvements approved by the Board hereunder must be commenced within one year from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the Board, unless the Board gives a written extension for commencing the work. Additionally, except with written Board approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Member, all work approved by the Board hereunder shall be completed within ninety (90) days of commencement.

10. EASEMENTS.

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

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

(b) the right of the Association to suspend the voting rights of any Member and the right of a Member to use any portion of the Common Property for any period during which any assessment against his or her Lot which is provided for herein remains unpaid and for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations;

- (c) the right of the Association to borrow money as may be set forth in the Bylaws;
- (d) the right of the Association to grant permits, licenses or easements across the Common Property, as authorized in this Declaration or the Bylaws; and
- (e) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association.

Any Member may delegate his or her right of use and enjoyment in and to the Common Property and recreational facilities located thereon to the members of his or her family, his or her tenants and guests; provided, however, any Owner of a Lot within Saddle Creek who has not submitted the Owner's Lot to this Declaration shall not be permitted to use the Common Property and recreational facilities thereon.

11. INSURANCE.

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

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

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

(d) All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the benefit of the Association and its members.

(e) The Board, in its reasonable discretion, also may maintain as an Association expense a fidelity bond or similar coverage on directors, officers, employees or other Persons handling or responsible for the Association's funds, in an amount determined in the Board's business judgment.

12. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Common Property as a result of fire or other casualty, unless eighty (80%) percent of the Members vote not to proceed with

the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure.

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

(b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a special assessment shall be made against all of the Members in accordance with the provisions herein for special assessments.

13. MORTGAGEE'S RIGHTS

(a) Mortgagee Approval of Actions. Unless at least two-thirds (2/3) of either the holders of first Mortgages on Members' Lots or the Members give their consent, the Association shall not:

- i) by act or omission seek to abandon or terminate the Association;
- ii) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property (the granting of utility or public easements or rights-of-way shall not be deemed a transfer within the meaning of this provision); or
- iii) use hazard insurance proceeds for losses to any portion of the Common Property for other than the repair, replacement, or reconstruction of such portion of the Common Property.

(b) Mortgagee Assessments Upon Foreclosure of Member Lot. Where the Mortgagee holding a first Mortgage of record on a Member's Lot or other purchaser of a Member's Lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of assessments chargeable to such Lot which became due prior to such acquisition of title.

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

- i) any condemnation loss or any casualty loss which affects a material portion of the Common Property or any Lot on which there is a first Mortgage held by such Eligible Mortgage Holder;
- ii) any delinquency in the payment of assessments or charges owed by Member subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a

period of sixty (60) days, and any default in the performance by a Member of any other obligation under the Declaration or Bylaws which is not cured within sixty (60) days;

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

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

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

14. ENFORCEMENT.

(a) Authority and Enforcement. Every Member and Occupant, shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance shall entitle the Association and, in an appropriate case, one or more aggrieved Members, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations through any legal or equitable remedy.

The Board shall have the power to impose reasonable fines against Members, which shall constitute a lien upon the Member's Lot, and to suspend a Member's right to vote or to use the Common Property for violation of any duty imposed under this Declaration, the Bylaws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Member Lot. If any Occupant violates the Declaration, Bylaws or Association rules and a fine is imposed, the fine may be imposed against the Member and/or Occupant. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(b) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board, may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in the Bylaws.

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

Each Member shall be responsible for ensuring that the Member's family, guests, tenants and occupants comply with all provisions of this Declaration, the Bylaws and the rules and regulations of the Association. In addition to any rights the Association may have against the Member's family, guests, tenants or occupants, the Association may take action under this Declaration against the Member as if the Member committed the violation in conjunction with the Member's family, guests, tenants or Occupants.

15. AMENDMENTS.

This Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the Members of the Association holding two-thirds (2/3) of the total vote thereof. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Fulton County, Georgia land records.

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

16. GENERAL PROVISIONS.

(a) Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Property; however, each Member, 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 and shall have no duty to provide security on the Property or elsewhere. It shall be the responsibility of each Member to protect his or her person and property and all responsibility to provide security shall lie solely with each Member and/or Occupant. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

(b) Submission of Common Property. The Common Property owned by the Association shall be deemed submitted to this Declaration pursuant to execution of this Declaration by the Association.

(c) Indemnification. The Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall

indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

(d) 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.

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

(f) Status of Holders of Seasonal Use Passes. The holders of seasonal use passes and Owners who have not submitted their Lots to this Declaration are not "lot owners" as defined in the Act.

(g) Dispute Resolution. All Members must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute and submit the dispute to formal mediation before the Member files any lawsuit against the Association, the Board, any officer or director, or the property manager of the Association. The Member shall, in such notice and at the hearing and the mediation session, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Member's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing from the person requesting the hearing. If mediation is required, the mediation shall be conducted in accordance with the Mediation Rules of the Superior Court of Fulton County and the parties shall share the costs equally.

(h) Preamble. The preambles to this Declaration are incorporated herein by this reference

17. SEVERABILITY.

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

18. DURATION.

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

Notwithstanding anything herein to the contrary, neither (1) the foreclosure of one or more Member Lots subsequent to the recording of this Declaration, nor (2) the execution of one or more consents in a defective manner, nor (3) that as a result of foreclosure and/or defective execution, there are less than two hundred (200) Permanent Members at any time or from time to time, shall effect the validity and enforceability of this Declaration.

19. BYLAWS.

Each Person who executes this Declaration also agrees and consents to the Amended and Restated Bylaws for Saddle Creek Homeowners Association, Inc. attached hereto as Exhibit "F" ("Bylaws") in the event such person is a member of the Association at the time of such execution.

20. PREPARER.

This Declaration was prepared by John T. Lueder, Weissman, Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia 30326; (404) 926-4500; Email: johnlueder@wncwlaw.com

IN WITNESS WHEREOF, the Board of Directors and undersigned Owners of Lots as set forth below have approved recording of this Declaration of Protective Covenants and Permanent Membership for Saddle Creek and the signature pages to follow:

**SADDLE CREEK HOMEOWNERS
ASSOCIATION, INC.**

By: _____
President

Attest: _____
Secretary

[CORPORATE SEAL]

Signed, sealed, and delivered this
_____ day of _____, 200__.

Witness

Notary Public
My Commission Expires: