



A COMPLETE MODIFICATION AND RE-STATEMENT OF THE
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

FOR

CULLASAJA CLUB SUBDIVISION

Amended and Adopted: October 21, 2022

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Adopted: October 21, 2022

COMPLETE MODIFICATION AND RESTATEMENT OF DECLARATION COVENANTS,
RESTRICTIONS AND EASEMENTS FOR CULLASAJA CLUB

THIS COMPLETE MODIFICATION AND RESTATEMENT OF DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR CULLASAJA CLUB (the “Declaration”) is made as of the 20th day of August , 2017 by Cullasaja Homeowners’ Association, Inc. (hereafter referred to as “Association”), a North Carolina non-profit Corporation.

BACKGROUND STATEMENT AND SUBMISSION OF PROPERTY

This Declaration is intended to impose upon the Properties (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Properties and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subjected to this Declaration.

The property submitted by the Original Declarant (as defined herein) is hereby consolidated under the terms of this Declaration.

Cullasaja Homeowners’ Association, Inc. has the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Original Declarant as provided in the Original Declarations.

NOW THEREFORE, all of the property described in the original Declaration and any additional property which is hereafter subjected to this Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions covenants, and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding on all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof. This Declaration is made pursuant to and is intended to establish a common scheme or plan on development for the Properties, and the provisions hereof shall constitute real covenants running with the land and equitable servitudes, and shall be enforceable by Cullasaja Homeowners’ Association, Inc., its successors and assigns, and by each and every owner of real property which is a part of the Properties, and their heirs, successors, and assigns.

ARTICLE I
DEFINITIONS

The following words, when used in this Declaration of Covenants, Restrictions and Easements, shall have the following meanings:

- 1.01. Association. “Association” means Cullasaja Homeowners’ Association, Inc. (a non-profit, non-stock, membership corporation organized under Chapter 55A of the North Carolina General Statutes, its successors and assigns.
- 1.02. Board. “Board” means the Board of Directors of the Association.
- 1.03. By-Laws. “By-Laws” means the By-Laws of the Association.
- 1.04. Club. “Club” shall mean Cullasaja Club, Inc., which is a private golf, tennis and social club which owns, and whose members will be entitled to use the Club Facilities.

1.05. Club Facilities. “Club Facilities” shall mean the recreational facilities constructed in the Development, other than any lake and hiking trails, if any, and which shall include certain golf, tennis, and swimming facilities and clubhouse, and owned by the Club.

1.06. Commencement Date. “Commencement Date” means the first day of the first month following the date on which the Original Declarant determined that the clubhouse (which is part of the Club Facilities), was open and operational, which date was the 12th day of May, 1989.

1.07. Common Property. “Common Property” means all real property (together with any and all facilities and improvements now or hereafter located thereon) owned by the Association or in certain instances over which the Association has been granted permanent easements, for the common use and enjoyment of the Owners.

1.08. Cottages. “Cottages” means the single family detached units shown on the Site Plan and recorded plats.

1.09. Development. “Development” means the residential community known as Cullasaja Club construction on the real property described on Exhibit A attached hereto.

1.10. Development-Wide Standard. “Development-Wide Standard” shall mean the standard of conduct, maintenance or other activity generally prevailing in the Development. Such standard may be more specifically determined by the Board and by Committees required or permitted to be established pursuant to the Declaration and By-Laws. Such determination, however, must be substantially consistent with the Development-Wide Standard established by the Original Declarant.

1.11. Lot. “Lot” means any parcel of land located in the Development conveyed by Original Declarant for the purpose of constructing a Residence thereon and otherwise shown upon a subdivision plat recorded in the Offices of the Register of Deeds in Macon and Jackson Counties, North Carolina, covering any portion of the Property, provided, however, that no portion of the Common Property shall ever be a Lot.

1.12. Member. “Member” means a member of the Association.

1.13. Membership. “Membership” means the collective total of all Members of the Association.

1.14. Mortgage. “Mortgage” means any mortgage, deed of trust, deed to secure debt and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

1.15. Mortgagee. “Mortgagee” means the holder of a Mortgage.

1.16. Occupant. “Occupant” shall mean any person occupying all or any portion of a Residence and other property located within the Development for any period of time, regardless of whether such person is a tenant or the Owner of such property.

1.17. Original Declarant. “Original Declarant” means Cullasaja Joint Venture, A Georgian joint venture qualified to do business in the State of North Carolina.

1.18. Original Declaration. “Original Declaration” means the Declaration of Covenants, Restrictions and Easements for Cullasaja Club dated May 5, 1987, recorded in Book H-17 at Page 266, Macon County Public Registry, and in Book 658 at Page 714, Jackson County Public Registry; as amended by First Amendment to Declaration dated August 27, 1987, recorded in Book L-17 at Page 344, Macon County Public Registry, and in Book 672 at Page 20, Jackson County Public Registry; as further amended by Second Amendment to Declaration dated January 31, 1990, recorded

in Book P-18 at Page 148, Macon County Public Registry, and in Book 832 at Page 48, Jackson County Public Registry; as further amended by Third Amendment to Declaration dated August 4, 1995, recorded in Book X-19 at Page 1046, Macon County Public Registry, and in Book 746 at Page 345, Jackson County Public Registry; and as further amended by Amendment to Declaration dated January 15, 2000, recorded in Book Z-20 at Page 879, Macon County Public Registry, and in Book 898 at Page 689, Jackson County Public Registry.

1.19. Owner. “Owner” means the record owner (including original Declarant) of a fee simple title to any Lot, whether or not a Residence exists on such Lot, provided, however, where fee simple title has been transferred and is being held merely as security for the repayment of a loan, the person or entity who would own the Lot or Residence in fee simple if such loan were repaid in full shall be considered the Owner.

1.20. Property. “Property” means that certain real property hereinabove described on Exhibit A attached hereto and made a part hereof together with such additional real property as may be subjected to the provisions of this Declaration in accordance with the provisions of Article X hereof.

1.21. Residence. “Residence” shall mean a structure situated upon a portion of the Development intended for any type of independent use and occupancy as a residence by a single family. For example, each single family detached home shall constitute a Residence; each Villa and each Cottage shall constitute a Residence. A Residence shall include all portions of the land owned as part of the structure described above.

1.22. Restrictions. “Restrictions” means all covenants, restrictions, easements, charges, liens, and other obligations created or imposed by this Declaration.

1.23. Site Plan. “Site Plan” means the drawing which represents the conceptual plan for the Development.

1.24. Structure. “Structure” means:

(a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, dock, curbing, paving, wall, tree, shrub (and all other forms of landscaping), sign, signboard, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(b) any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(c) any change in the grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 1.20 applies to such change.

1.25. Villa. “Villa” shall mean a single family fee simple townhouse unit, as shown on the Site Plan.

ARTICLE II
COMMON PROPERTY

2.01. Conveyance of Common Property. The Original Declarant conveyed to the Association certain real and personal property and granted to the Association easements and right of way in certain real property for the common use and enjoyment of the Owners (such real and personal property is hereinafter collectively referred to as "Common Property"). The Association accepted from the Original Declarant all such conveyances of Common Property. Such conveyance was subject to the restrictions and limitations set forth in the Original Declarations and any other restrictions and limitations of record and included the following:

(a) the streets and roads constructed by the Original Declarant within the Development and leading from a public road to the Lots, Villas, and Cottages, for the use of all Owners, their licensees, invitees and Occupants for ingress, egress and regress to all Residences and the Club Facilities.

(b) the entrance to the Development, the rights of way adjacent to streets and roads within the Development and leading to the Development from a public road.

(c) the water, drainage and sewer systems and any other utilities now or hereafter to be constructed on the Development, including but not limited to all pipes, lines, pumps, wells, tanks, and other improvements which are a part of said systems.

2.02. Right of Enjoyment. Every Owner of a Lot or Residence shall have a right and easement to use and enjoy the Common Property, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes or inhibits with the free use and enjoyment of the Common Property by all other Owners. The Association may permit persons who are not Owners to use and enjoy part or all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. The right and easement of enjoyment granted or permitted by this Section 2.02 is subject to suspension by the Association as provided in Sections 2.04(f) and 3.05.

2.03. Private Recreational Facilities. The purchase of a Lot or Residence in the Development does not confer upon the Owner a vested right or easement to use any of the Club Facilities. Memberships entitling use of the Club Facilities are available in the Club only in accordance with the terms and conditions of the Club's By-Laws. Owners may apply for membership entitling use of the Club Facilities in accordance with Club policies, subject to availability. Only persons with memberships entitling use of the Club Facilities will be permitted to use the Club Facilities. Membership entitling use of the Club Facilities is not included as part of the purchase price of a Lot or Residence in the Development.

2.04. Rights of The Association. The rights and privileges conferred in Section 2.02 hereof shall be subject to the right, and where applicable, the obligation, of the Association acting through the Board to:

(a) promulgate rules and regulations relating to the use, operation and maintenance of the Common Property;

(b) borrow money for the purpose of carrying out the activities of the Association, include the acquisition, construction, improvement, equipping and maintenance of Common Property, and in aid thereof to encumber by Mortgage, or other security interest any or all of the Association's property including Common Property and revenues from assessments, user fees and other sources; provided, the Association shall not deed, grant or convey to anyone any Mortgage, or other security interest on or in Common Property constituting real estate without approval by a majority vote of the Members who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the By-Laws of the Association;

(c) grant easements or rights of way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system;

(d) dedicate or transfer all or any part of the Common Property or interests therein to any municipality or other governmental body, agency or authority for such purposes and subject to such provisions and conditions as may be agreed upon by the Association and such grantee, including a provision that such property or interest shall, if such dedication or transfer is approved by a majority vote of the Members who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the By-Laws of the Association, cease to be subject to this Declaration or all or any part of the Restrictions while held by any such municipality or other governmental body, agency or authority;

(e) charge reasonable fees in connection with the admission to and use of facilities or services by Members and non-members; provided that in setting any such fee the Board may establish reasonable classifications which shall be uniform within each such class but need not be uniform between such classes;

(f) suspend, pursuant to section 3.05, the voting rights of any Member and the right of enjoyment granted or permitted by Section 2.02;

(g) sell, lease or otherwise convey all or any part of its properties and interests therein; and

(h) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof; and

(i) maintain any and all landscaping to the extent that such landscaping is not otherwise maintained by the appropriate state, county and/or municipal entity having jurisdiction over the roads for Macon and Jackson Counties, North Carolina.

2.05. Delegation of Use. Any Owner may delegate to the members of his family or his tenants who reside in a Residence, in accordance with the By-Laws, his right to use and enjoy the Common Property.

2.06. Maintenance. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. In addition, the Association shall maintain grass and other landscaping located along or in dedicated rights of way which were installed and maintained by the Original Declarant, to the extent permitted by the applicable governmental authority. The foregoing maintenance shall be performed consistent with the Development-Wide Standard.

The Association shall also have the right, but not the obligation to maintain and provide services for other property not owned by the Association, whether located within or without the boundaries of the Development, and to enter into easements, covenants to share cost agreements, and management agreements regarding such property and the Common Property where the Board has determined that this would benefit Owners.

ARTICLE III
CULLASAJA HOMEOWNERS' ASSOCIATION, INC.

3.01. Purposes, Powers and Duties of The Association. The Association was formed as a non-profit civic organization for the sole purpose of performing certain functions for the common good and general welfare of the people of the Development. The Association shall have no power or duty to do or perform any act or thing other than those acts and things which will promote in some way the common good and general welfare of the people of the Development. To the extent, and only to the extent, necessary to carry out such purpose, the Association (a) shall have all of the powers of a corporation organized under the North Carolina Nonprofit corporation Act and (b) shall have the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the association as set forth in this Declaration.

3.02. Membership in the Association. Every Owner shall automatically be a Member, and such membership shall terminate only as provided in this Declaration. No person or entity that is not an Owner shall be a Member. An Owner that is the record owner of more than one Lot shall be a separate Member with respect to each such Lot. Where an Owner of a Lot is comprised of one or more legal entities or is comprised of more than one person, only one (1) membership in the Association shall attach to such Owner, and the several persons comprising such Owner or having an interest in the legal entity or entities that comprise such Owner shall not separately be Members. The Club shall be a Member with respect to each Lot that it owns, and shall also be a Member with respect to the lands on which the facilities of the Club are located.

3.03. Voting Rights. Each Member shall be entitled to one (1) vote on all matters submitted to a vote of the Members under this Declaration or the By-Laws of the Association, except that the Club shall be entitled to six (6) votes on all such matters by virtue of its membership arising out of its ownership of the lands on which its facilities are located. Where a Member is comprised of one or more legal entities or is comprised of more than one person, the vote on behalf of such Member shall be exercised only by an individual person designated in a written instrument delivered to the Secretary of the Association and (a) where the Member is comprised of more than one person, executed by all persons comprising such Member, and (b) where such Member is comprised of one or more legal entities, executed by an officer of each such legal entity thereunto duly authorized. Such designation shall be binding upon the Association until revoked by an instrument executed by or on behalf of such group or entity with the same formalities described in the preceding sentence and delivered to the Secretary of the Association.

3.04. Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The number of Directors and the method of election of Directors shall be as set forth in the By-Laws of the Association.

3.05. Suspension of Membership. The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:

(a) shall be subject to the Right of Abatement, as defined in Section 8.02 by reason of having failed to take the reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards of the ACC (as herein defined) within thirty (30) days after having received notice of the same pursuant to the provisions of section 5.11, 6.17 or 8.02 hereof;

(b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article IV hereof; or

(c) shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property. Such suspension shall be for the balance of the period in which said Member or person shall remain in violation, breach or default, as aforesaid, except that in the case of a violation described in subsection (c) of this section 3.05, the suspension

may be for a period not to exceed 60 days after the cure of termination of such violation. No such suspension shall prevent an Owner's ingress to or egress from his Lot or Residence.

3.06. Termination of Membership. Membership shall cease only when a person ceases to be an Owner.

3.07. Voting Procedures. The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration, the North Carolina Nonprofit Corporation Code, the Articles of Incorporation of the Association, and the By-Laws of the Association, as each shall from time to time be in force and effect. In all such matters, Members of the Association may vote in person or by proxy.

ARTICLE IV ASSESSMENTS

4.01. Covenant for Assessments and Creation of Lien and Personal Obligation. Each Owner of a Lot or Residence, jointly and severally, for himself, his heirs, distributees, legal representatives, successors and assigns, by acceptance of a deed for a Lot or Residence, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows:

(a) to pay the Association the annual assessments which may or shall be levied by the Association pursuant to this Declaration against all Lots and/or Residences owned by him;

(b) to pay to the Association any special assessments for capital improvements and other charges which may or shall be levied by the Association pursuant to this Declaration against all Lots and/or residences owned by him;

(c) that there is hereby created a continuing charge and lien upon all Lots and Residences owned by him against which all such assessments are made to secure payment of such assessments and any interest thereon as provided in Section 4.10 hereof and costs of collection including reasonable attorneys' fees;

(d) that such continuing charge and lien on such Lot or Residence binds such Lot or Residence in the hands of the then Owner, and the Owners heirs, devisees, legal representatives, successors, and assigns. Such charge and lien is superior to any and all charges, liens, or

4.04. Maximum Annual Assessment.

(a) Beginning on the Commencement Date and continuing thereafter until January 1 of the year immediately following the Commencement Date, each Lot shall be subject to an annual assessment. The words "Assessment Year" as used herein shall mean the calendar year with the first Assessment Year commencing on January 1 of the year immediately following the Commencement Date.

(b) Commencing with the first Assessment Year and continuing thereafter, the annual assessment may be increased at any time and from time to time during each Assessment Year, but no more than ten percent (10%) above the maximum annual assessment for the previous Assessment Year, without a vote of the Membership.

(c) Commencing with the first Assessment Year and continuing thereafter, the annual assessment for each Assessment Year may at any time and from time to time be increased more than ten percent (10%) above the maximum annual assessment for the previous Assessment Year if such increase is approved by a majority vote of the Members of the

Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association and this Declaration.

(d) NOW, THEREFORE, BE IT RESOLVED ON AUGUST 20, 2017 VIA VOTE OF THE MEMBERSHIP, that the Association is authorized to include in the annual assessment for each Residence for each Assessment Year hereafter occurring the amount of the annual cost of the Basic Package purchased by the Association pursuant to the Agreement for such Residence plus applicable taxes and governmental fees, and to the extent the inclusion of such amounts in the annual assessment for any Assessment Year increases the assessment for that year by more than 10% above the assessment for the previous Assessment Year, such increase is hereby approved pursuant to Section 4.04 (c) of the Declaration.

4.05. Assessment Procedure.

(a) The Board shall establish the annual assessment for each Assessment Year at an amount not in excess of the maximum annual assessment as determined by the provisions of this Article IV, and shall also establish the date during the Assessment Year on which the annual assessment shall be due and payable (such date is hereinafter referred to as the "Due Date"). The Board shall also establish an annual budget which shall list the estimated operating expenses and shall contain an amount to be set aside each year into a reserve allowance to be used for future repair and replacement of the Common Property; provided, however, in no event shall the Board be required to provide for a reserve sufficient to cover all such future repair and replacement of the Common Property, it being intended that a portion of such costs will be covered by future special assessment(s). The Board shall cause the Association to send to each Owner at least thirty (30) days in advance of the Due Date written notice setting forth the amount of the annual assessment and the Due Date. The annual assessment shall become due on the thirtieth (30th) day following such written notice of the Due Date, whichever is later. The Board may establish reasonable payment procedures to allow or require payment of the annual assessment in installments during the Assessment Year. The Board shall also establish payment procedures for payment of any special assessments for capital improvements which may be levied in accordance with the provisions of this Article IV.

(b) All Members of the Association shall be given written notice by the Board not less than ten (10) nor more than fifty (50) days in advance of any meeting of the Members of the Association at which the Board shall propose taking action pursuant to Section 4.04(c) and Section 4.05 of this Article IV. Such written notice shall specify under which Section or Sections the Board will propose action. At such meeting, the presence of Members or proxies entitled to cast fifty percent (50%) of the total votes outstanding shall constitute a quorum. If the required quorum is not present at such meeting, a second meeting may be called by the Board subject to the same notice requirement, and the required quorum at such second meeting shall be thirty percent (30%) of the total votes outstanding. No such second meeting shall be held more than thirty (30) days following the first meeting. If the required quorum is not present at the second meeting, the Board may take such action without approval of the Members. Residences and undeveloped Lots need not be the same. Notwithstanding the foregoing, Association shall be entitled, by amendment to this Declaration, or by separate declaration(s) or covenants, restrictions and easements applicable to the Villas and/or Cottages, to provide for additional assessments to be paid by the Owners of the Villas and Cottages.

4.07. Payment of Assessments by Declarant. Notwithstanding any provision contained herein to the contrary, for so long as Declarant is the Owner of any Lot, Villa or Cottage within the Development, Declarant shall not be liable for assessments against such Lots and Villas, provided that the Declarant funds any deficit which may exist between assessments and the actual operating expenses (but not reserves) of the Association during such period. Declarant may at any time and from time to time commence paying assessments as to Lots and Residences that it owns and thereby automatically terminate its obligation to fund deficits, but may at any time thereafter and from time to time again elect to follow the procedure specified in the preceding sentence. When all Lots and

Residences within the Development have been sold to third parties, Declarant shall have no further liability of any kind to the Association for the payment of assessments or deficits.

4.08. Payment of Assessments by the Club on Club Facilities. The Club shall be responsible for the payment of annual and special assessments and shall be assessed at a rate equal to six (6) times the assessment applicable to an individual Lot.

4.09. Effect of Nonpayment of Assessments. Any Assessment which is not paid on or before the Due Date shall bear interest after the Due Date at the lower of the maximum rate permitted by law or the rate of eighteen percent (18%) per annum or at such rate as the Board may from time to time establish, provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of North Carolina. In the event of default in the payment of any one or more installments of an assessment, the Board may declare any remaining balance of the assessment at once due and payable. In the event that an Owner shall fail to pay fully any portion of any assessment prior to the date on which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with interest and costs of collection including reasonable attorneys' fees, shall be a binding personal obligation of such Owner, as well as a lien on such Owner's lot and/or Residence enforceable in accordance with the provisions of this Declaration.

4.10. Certificate of Payment. Upon written demand by an Owner, the Association shall within a reasonable period of time issue and furnish to such Owner a written certificate stating that all assessments (including penalties, interest and costs, if any) have been paid with respect to any Lot and/or Residence owned by said Owner as of the date of such certificate or that all assessments, interest and costs have not been paid, setting forth the amount then due and payable. The Association may make a reasonable charge for the issuance of such binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot in question.

4.11. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section 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 exercise its authority under this section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The Board may specifically assess owners for the following expenses, except for the expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

(a) Expenses of the Association which benefit less than all of the Lots or Residences, which may be specifically assessed equitable among all of the Lots and Residences which are benefitted according to the benefit received;

(b) Expenses incurred by the Association pursuant to Section 6.17 hereof; and

(c) Reasonable fines as may be imposed in accordance with the terms of the Declaration and By-Laws.

ARTICLE V
ARCHITECTURAL CONTROL

5.01. Architectural Control Committee (“ACC”) – Creation and Composition.

(a) An Architectural Control Committee (“the ACC”) shall be established consisting of not less than three (3) or more than five (5) individuals, at least one of whom shall be a member of the Board; provided, however, that the ACC shall always have an uneven number of members. The Board shall appoint the members of the ACC. All costs of operating the ACC shall be borne by the Association.

(b) Each initial member of the ACC shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the ACC by reason of death, incapacity, resignation, removal or otherwise, the remaining members of the ACC shall continue to act and such vacancy shall, subject to the provisions of 5.01(a), be filled by the Board at the earliest possible time. Any ACC member may resign at any time by giving written notice of such resignation to the Chairman of the ACC and such resignation shall take effect on the receipt thereof by the Chairman. Any member of the ACC may be removed at any time with or without cause by the Board.

5.02. Purpose, Powers and Duties of the ACC. The purpose of the ACC is to assure that any installation, construction or alteration of any Structure on any Lot shall be submitted to the ACC for approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the Cullasaja Club Development, and (ii) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and everything necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

5.03. Officers, Subcommittees and Compensation. The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be reimbursed by the Association for traveling expenses and other reasonable out of pocket costs incurred in the performance of their duties as members of the ACC.

5.04. Operations of the ACC.

(a) Meetings. The ACC shall hold regular meetings at least once every three (3) months or more often as may be established by the ACC. Special meetings may be called by the Chairman and shall be called by the Chairman upon the written request of a majority of the members of the ACC then in office. Regular and special meetings of the ACC shall be held at such time and at such place as the ACC shall specify. Notice of each regular or special meeting of the ACC shall be mailed to each member thereof at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any member of the ACC who signs a waiver of notice either before or after the meeting. Attendance of a member of the ACC at a meeting shall constitute a waiver of notice of such meeting and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the Member states, at the beginning of the meeting, any such objection or objections to the

transaction of business. At each meeting of the ACC, the presence of a majority of its members shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the ACC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ACC. In the absence of a quorum, any member of the ACC present at the time and place of the meeting may adjourn the meeting from time to time (but not more than thirty (30) days) until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The ACC shall maintain both a record of votes and minutes for each of its meetings. The ACC shall make such records and minutes available at reasonable places and times for inspection by Members of the Association and by the Secretary. Any action required to be taken at a meeting of the ACC, or any action which may be taken at a meeting of the ACC, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the ACC and be filed within the minutes of the proceedings of the ACC. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ACC.

(b) Activities.

(i) The ACC shall adopt and promulgate the Design Standards described in Section 5.05 hereof and shall, as required, make findings, determinations, rulings and orders with respect to the conformity with said Design Standards of plans and specifications to be submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations or approvals, which may include specified requirements or conditions, pursuant to the provisions of this Declaration.

(ii) Any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to all matters over which the ACC has authority as may be specified by resolution of the ACC, except with respect to the adoption of promulgation of the Design Standards. The unanimous action of the two (2) or more ACC members with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or appeal by the applicant to the ACC as provided in this paragraph (ii). Written notice of the decision of such two (2) or more members shall, within five (5) working days thereof, be given to any applicant for and approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviews promptly by, the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

5.05. Design Standards.

(a) The ACC shall from time to time adopt, promulgate, amend, revoke and enforce guidelines (the "Design Standards") for the purposes of:

(i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration.

(ii) governing the procedure for such submission of plans and specifications;

(iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior color and materials, details of the construction,

location and size of Structures and all other matters that require approval by the ACC pursuant to this Declaration; and

(iv) assuring the conformity and harmony of external design and general quality of Cullasaja Club Development.

(b) The ACC shall make a published copy of its current Design Standards readily available to Members and prospective Members of the Association and to all applicants seeking the ACC's approval.

5.06. Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot or any other part of the Property, nor shall any existing Structure upon any Lot or any other part of the Property be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefore shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be prepared by a registered architect and be in such form and shall contain such information as may be reasonable required by the ACC in the Design Standards, including, without being limited to:

(a) a site plan showing the location of all proposed and existing Structure on the Lot including building setbacks, open space, driveways, walkways and parking spaces including the number thereof and all siltation and erosion control measures;

(b) a foundation plan;

(c) a floor plan;

(d) exterior elevations of all proposed Structures and alterations to existing Structure, as such Structures will, appear after all back-filling and landscaping are completed;

(e) specifications of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures; and

(f) plans for landscaping and grading.

5.07. Approval of Plans and Specifications. Upon approval by the ACC of any plans and specifications submitted pursuant to this Declaration, two (2) copies of such plans and specifications, as approved, shall be deposited for permanent record with the ACC and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with a lot or Structure of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

5.08. Disapproval of Plans and Specifications. The ACC shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration because of any of the following:

(a) the failure to include information in such plans and specifications as may have been reasonably requested;

(b) the failure of such plans or specifications to comply with this Declaration or the Design Standards;

(c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure (i) to fail to be in a conformity and harmony of external design and general quality with the standards for Cullasaja Club Development as set forth in the Design Standards or the Development-Wide Standard, or (ii) as to location to be incompatible with topography, finished ground elevation and surrounding Structure. In any case in which the ACC shall disapprove any plans and specification submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

5.09. Obligation to Act. The ACC shall take action on any plans and specifications submitted as herein provided within thirty (30) days after receipt has been acknowledged in writing by the General Manager or his representative. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by ACC to take action within thirty (30) days of receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

5.10. Inspection Rights. Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable time or times enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration; and neither the Association, nor the ACC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

5.11. 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 and the Board shall take appropriate measures to correct the violation; 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 reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in section 8.02 hereof.

5.12. Certification of Compliance.

(a) Upon completion of the installation, construction or alteration of an Structure in accordance with plans and specifications approved by the ACC, the ACC shall, upon written request of the Owner thereof or upon the ACC's own initiative, issue a Certificate of Compliance, identifying such Structure and the Lot upon which such Structure is placed, and stating that the plans and specifications have been approved and that such Structure complies with such plans and specifications. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the ACC.

(b) Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated; and as to any purchaser or

encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article, provided, however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction of Structures or of the workmanship, or to represent or warrant to anyone the quality, function or operation of the structures or of any construction, workmanship, engineering, materials or equipment.

The issuance of the Certificate shall in no way be construed to certify to any party that the structures have been built in accordance with any applicable rule, regulation or building codes.

5.13. Fees. The ACC may impose and collect a reasonable and appropriate fee to cover the cost of review of plans and of inspections performed pursuant to Section 5.10. This fee as well as impact fees shall be established from time to time by the ACC and communicated to the membership.

5.14. Nondiscrimination by ACC. The ACC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age or national origin.

5.15. Disclaimer as to ACC Approval. Plans and specifications are not reviewed for engineering or structural design or quality of materials, and by approving such plans and specifications neither the ACC, the members thereof, nor the Association assumes liability or responsibility therefore, nor for any defect in any structure constructed from such plans and specifications. Neither the Association, the ACC, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these Restrictions by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against the Association, the ACC, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby release, remises, quit-claims, and covenants not to sue for all claims, demands, and cause of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

ARTICLE VI
GENERAL COVENANTS AND RESTRICTIONS

6.01. Application. The covenants and restrictions contained in this Article VI shall pertain and apply to all Lots and to all Structures erected or placed thereon.

6.02. Restriction of Use. Lots may be used for single-family residences only and for no other purpose.

6.03. Resubdivision of Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, without the prior written approval of the ACC of plans and specifications for such split, division or subdivision notwithstanding the foregoing, nothing herein shall prevent the Owners of any Lots from combining two or more Lots into one Lot for construction of a single Residence thereon; provided, however, that such combined Lot may not be subdivided thereafter; and, provided further, that the Owner of the Residence on such Lot shall be responsible for the annual and special assessments based upon the number of Lots combined into one Lot.

6.04. Water System. The central water supply system proved for the services of the Development shall be used as the sole source of water for all water spigots and outlets located within or on all buildings and improvements located on each Lot. Each Lot Owner at his expense shall connect his water lines to the water distribution main proved to serve that Owner's Lot, shall pay the connection and water meter charges established or approved by the Association or other supplier thereof and shall maintain and repair all portions of such water lines located on the discharge side of the water meter, whether within or outside the boundaries of his Lot. After such connection, each property owner shall pay when due the periodic charges or rates for the furnishing of water made by the supplier thereof. No individual water supply system or well shall be permitted on any Lot without first obtaining the written consent of the ACC. No consumptive water wells shall be allowed.

6.05. Sewage System. The central sewage system provider for service of the Development shall be used by each Lot Owner and each Lot Owner shall, at his expense, connect his sewage disposal lines to the sewage collection line provided to serve that Owner's Lot so as to comply with the requirements of such sewage collection and disposal service and shall pay such connection charges, other charges and fees as may be established or approved by the association, or other supplier thereof. Each Lot Owner shall maintain and repair all portions of such sewer lines located within the boundaries of his Lot. After such connection, each such Lot Owner shall pay when due the periodic changes or rates for the furnishing of such sewage collection and disposal service made by the operator thereof. No sewage shall be discharged onto the open ground or into any marsh, lake, pond, park, ravine, drainage ditch or canal or roadway and no septic tank or drain field shall be placed or allowed in the Development without the prior written consent of the ACC.

6.06. Electrical, Cable and Telephone Service. Unless the Association expressly consents in writing or unless the Association otherwise directs or provides, all telephone, electric, cable and other utilities lines and connections between the main or primary utilities lines and the Residence and the other buildings located on each Lot shall, be concealed and located underground so as not be visible. Each Owner of a Lot which is to be provided electric service through the underground primary service lines who requires an original or an additional electric service shall be responsible to complete at his expense the secondary electric service conduits, wires (including those in the conduit provided by Declarant), conductors and other facilities from the point of the applicable transformer served by the underground primary service lines to the Residence and other approved Structure on the Lot and all of same shall be and remain the property of the Lot Owner of each such Lot. The Owner of each such Lot shall be responsible for all maintenance, operation, safety, repair and replacement of the entire secondary underground electric system extending from the

applicable transformer to the Residence and other Structures on the Lot. Notwithstanding the foregoing, until such time that underground service is available and feasible, overhead primary service lines and secondary service lines, connections and related primary and secondary electric facilities need not be concealed and located underground. At such time as the Association determines that underground electrical facilities are available and feasible or within a reasonable time thereafter within the discretion of the Association, all such overhead electric facilities shall be removed and replaced with underground electrical facilities. During the period of time in which said temporary overhead facilities are permitted, the Lot Owner shall be responsible, as provided hereinabove, for the secondary service lines and facilities between the transformer and the Residence and other buildings on the Lot.

6.07. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape and required landscaping as provided for in Section 6.08. Guidelines for the prevention and control of erosion and siltation may be included in the Design Standards of the ACC.

6.08. Landscaping. No construction or alteration of any Structure shall take place without the prior written approval by the ACC of plans and specifications for the landscaping to accompany such construction or alteration. Guidelines for the landscaping to accompany the construction or alteration of any Structure may be included in the Design Standards of the ACC.

6.09. Trees. No tree having a diameter of three (3) inches or more (measured from a point two (2) feet above ground level) shall be removed from any Lot unless such removal is in conformity with approved landscaping plans and specifications submitted pursuant to the provisions of Section 6.08 hereof. Guidelines relating to the preservation of trees and other natural resources and wildlife upon the Property may be included in the Design Standards of the ACC.

6.10. Temporary Buildings. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary sleeping or living quarters required or desirable for security purposes in accordance with plans and specifications therefore approved by the ACC. No contractor or builder shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot.

6.11. Signs.

(a) No signs whatsoever (including but not limited to commercial and similar signs) shall, without the ACC's prior written approval of plans and specifications therefore, be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:

(i) such signs as may be required by legal proceedings;

(ii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ACC.

(b) In no event during approved construction of any Structure shall more than one job identification sign be approved by the ACC.

(c) "For Rent" or "For Sale" signs shall be prohibited in the Development.

6.12. Setbacks. In approving plans and specifications for any proposed Structure, the ACC may establish setback requirements for the location of such Structure. Guidelines for setbacks may be included in the Design Standards of the ACC. No Structure shall be erected or placed on any Lot unless its location is consistent with such setbacks or approved in writing by the ACC.

6.13. Fences. No fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the ACC of plans and specifications for such fences and walls. Guidelines relating to the design, location and uses of fences and walls may be included in the Design Standards of the ACC.

6.14. Roads and Driveways. No road or driveway shall be constructed or altered on any Lot without the written approval of the ACC of plans and specifications for such roads and driveways. Guidelines relating to the design and location of roads and driveways may be included in the Design Standards of the ACC.

6.15. Antennae, Etc. No exterior television or radio antennae or satellite dish, except the 18" version now in use, or solar equipment of any sort shall be placed, allowed or maintained upon any portion of a Structure or Lot without prior written approval by the ACC. No antennae shall be installed or used for the purpose of transmitting of electronic signals.

6.16. Clotheslines, Garbage Cans, Etc. All clotheslines, equipment, garbage cans and woodpiles shall be kept screened by adequate planting or fencing so as to conceal them from view by neighboring residences and streets, and may be maintained in the rear yard on a Lot only.

6.17. Maintenance. Each Owner shall keep and maintain each Lot and Structure owned by him, as well as all landscaping located thereon, in good condition and repair, including, but not limited to (i) the repairing and painting (or other appropriate external care) of all Structures; (ii) the seeding, watering and mowing of all lawns; and (iii) the pruning and trimming of all trees, hedges and shrubbery so that the same are not obstructive of a view by motorists or pedestrians of Street traffic. In addition, the maintenance required hereunder shall also extend from the boundary of a Lot to the edge of the street pavement bordering said Lot. If in the opinion of the ACC, any Owner shall fail to perform the duties imposed by this section, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the failure of said Owner to perform the duties imposed by this Section, then the Board shall give written notice to the Owner to remedy the condition in question; setting forth in reasonable detail the nature of the condition and the specific action or actions needed to be taken to remedy such condition. If the Owner shall fail to take reasonable steps to remedy the condition within thirty (30) days after the mailing of said written notice by certified mail, then the Association shall have the Right of Abatement as provided in Section 8.02 hereof. Guidelines relating to the maintenance of Structures and landscaping may be included in the Design Standards of the ACC.

6.18. Commercial and Recreational Vehicles and Trailers. No commercial vehicle, house trailer, mobile home, motor home, recreational vehicle, camper, truck with camper top, boat or boat trailer or like equipment shall be permitted on any Lot on a permanent basis, but shall be allowed on a temporary basis not to exceed forty-eight (48) consecutive hours. Notwithstanding the foregoing, any such vehicles or equipment may be stored on a Lot provided such vehicle or equipment is kept in an enclosed space and is concealed from view by neighboring residences and streets.

6.19. Recreational Equipment. Recreational and playground equipment shall be placed or installed only upon the rear of a Lot as approved by the ACC. Basketball goals may be placed adjacent to the driveway, but shall be painted to match the house. No above ground pool shall be allowed.

6.20. Non-Discrimination. No Owner or person authorized to act for an Owner shall refuse to sell, or rent, after receiving a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise made unavailable or deny the purchase or rental of any Lot or Residence to any persons because of race, color, religion, sex, age or national origin. Anything in this Declaration to the contrary notwithstanding, this covenant shall run with the land and shall remain in effect without any limitation in time.

6.21. Animals. No agricultural animals may be kept on any Lot and no animals, including birds, insects, and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. No Structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for said Structure have been approved by the ACC.

6.22. Motorcycles, etc. Motorcycles, all-terrain vehicles, three wheelers, four wheelers, go-carts or similar vehicles may be used and operated within the Development, or upon any road, path or part of the Development, only in accordance with rules and regulations governing such use and operation from time to time adopted and published by the Board.

6.23. Solid Waste.

(a) No person shall dump rubbish, garbage, or any other form of a solid waste on any Lot or on Common Property.

(b) Except during approved construction and as approved by the appropriate governmental authority, no person shall burn rubbish, garbage, or any other form of solid waste on any Lot or on Common Property;

(c) Except for building materials employed during the course of construction of any Structure approved by the ACC, no lumber, metals, bulk materials or solid waste of any kind shall be kept, stored, or allowed to accumulate on any Lot unless screened or otherwise handled in a manner set forth in the Design Standards.

(d) Garbage, trash and rubbish shall be removed from the Residences only by parties, companies or agencies approved by the Association and each Owner agrees to pay when due the periodic charges or rates for such garbage collection service made by the party, company or agency providing same. If rubbish, garbage, or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open on any day that a pick-up is to be made, in order to provide access to persons making such pick-up. At all other times such containers shall be screened or enclosed in a manner set forth in the Design Standards. Guidelines relating to the type of containers permitted, the manner of storage and the place of pick-up may also be included in the Design Standards.

6.24. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereof which may be or may become any annoyance or nuisance to the community.

6.25. Lake Restriction. With respect to any Lake now existing, or which may be hereafter created, either within the Development, or adjacent or near thereto, no Owner shall have any right to pump or otherwise remove any water from such lake or lakes for the purpose of irrigation or other use nor place rocks, stones, trash, garbage, sewage, waste water, rubbish, debris, ashes or another refuge in such lake or lakes or in any other portion of the land owned by the Association lying adjacent to or near the Property. The Association shall have the sole and absolute right to control the water level of such lake or lakes and to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi in and on such lake or lakes. No gas or diesel driven boats shall be permitted to be operated on such lake or lakes. Owners of Lots which now, or may

hereafter, be adjacent to a lake (the “Lake Lots”) shall be required to maintain such grass, planting or other lateral support to prevent erosion of the embankment adjacent to the lake and the height, grade and contour of said embankment shall not be changed without the prior written consent of the Association. If any Owner of a Lake Lot fails to maintain said embankment in accordance with the foregoing, the Association shall have the right, but no obligation, to enter upon any such Lake Lot to perform such maintenance work which may be reasonable required, all at the expense of the Lake Lot Owner, which expense shall be payable by such Owner to the Association. No docks, piers or other similar facilities shall be constructed unless and until same shall been approved in accordance with Article V hereof. No bulkheads shall be permitted to be constructed without the prior written consent of the Association. Fishing shall be permitted (except from the bridge over the Lake), so long as a license is obtained from the appropriate governmental authority. Ice skating and swimming shall not be permitted.

6.26. Leasing. Residences may be leased only for residential purposes. Except for leases between Owners, leases between an Owner and the Club, and leases by the Club as lessor or sublessor, all leases of a Residence by an Owner shall have a minimum term of two (2) weeks, and shall be in a form of written lease approved by the Board, which form shall require, without limitation, that the lessee hereunder acknowledge receipt of a copy of the Declaration, the By-Laws, and such additional rules and regulations as may be promulgated by the Association. Such lease shall also require the lessee to comply with the foregoing and shall provide that, in the event of non-compliance, the Board, in addition to any other remedies available to it, may evict the lessee on behalf of the Owner and specifically assess all costs associated therewith against the Owner and the Owner’s Lot and/or Residence, and may also assess a fine against the Owner in the amount of \$3500 or such greater amount as the Board shall reasonably determine.

6.27. Mailboxes and Mail Delivery. No mailbox for U.S. postal or any other delivery service shall be erected on any Lot.

6.28. Golf Carts. Private golf carts may be used and operated within the Development, or upon any road, path or part of the Development, only in accordance with rules and regulations governing such use and operation from time to time adopted and published by the Board.

ARTICLE VII
EASEMENTS, ZONING AND OTHER RESTRICTIONS

7.01. Easements.

(a) The original Declarant reserved to the Association, its successors and assigns, blanket perpetual easements upon, across, above and under all property within the Development for access, ingress, egress, construction, installation, repairing, replacing, maintaining and removing roadways and rights-of-way, sidewalks, pathways and all pedestrian thoroughfare, drainage facilities and all utilities now or hereafter serving the Development or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, and any other similar service such as, but not limited to, a master television antennae system, cable television system, video system or security system which the Association might decide to have installed to serve the Development or any portion thereof. It is permissible for the Association and its successors and assigns to install, repair, replace, maintain and remove or to authorize the installation, repair, replacement, maintenance or removal of such wires, conduits, cables or other equipment related to the providing of any such utility or service. The Association and its successors and assigns shall have full rights of ingress and egress at all times over all portions of the Development for the installation, operation, maintenance, repair or removal of any of the foregoing utilities or services and shall have the right to remove any unauthorized obstruction placed in or on any of the foregoing easements would in the sole discretion of the Association or its successors and assigns, interfere with the use of the above easement, or with the use, maintenance operation or installation of the foregoing utilities or services. There is hereby reserved to the Association, its successors and assigns, easements for slope, fill, drainage and support of all roadways, rights of way and all pedestrian and vehicular thoroughfares in the Development.

(b) The Association shall have the right to assign and convey and to grant easements and sub-easements to one or more public utility companies, quasi-public service companies or relevant governmental authorities or to adjoining utility companies whether they be private, quasi-public or public.

7.02. Easement Area. The words “Easement Area” as used herein shall mean those areas on any Lot or any other portion of the Property with respect to which easements have been reserved by Original Declarant hereunder, or are otherwise shown on a recorded deed or easement agreement or on any filed or recorded map or plat relating thereto.

7.03. Entry. The Association and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Section. The Association and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of Section 7.01.

7.04. Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulation of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, the restrictions and easements created or imposed by Declaration, the most restrictive provision shall govern and control.

7.05. Easement for Lake Maintenance. Original Declarant reserves a perpetual easement for the benefit of the Association and its successors and assigns, across such portions of the Development, determined in the sole discretion of the Association (or its successors and assigns), as are necessary to allow for the maintenance of a lake(s), lakebed(s) and shoreline(s), if any, which are within the Development or which are made available for the use and enjoyment of the Owners and Occupants within the Development. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of the property adjacent to the lake(s), reasonable steps shall be taken to protect such property, and damage shall be repaired by the person or entity causing the damage at its sole expense. In order to allow the exercise of the rights created pursuant to this easement, no tree or structure may be placed within thirty (30) feet of the line formed by the highest normal pool, elevation of any lake, unless otherwise approved by the ACC. In addition, no plantings, trees or foliage may be removed from this easement area without specific prior approval of the Association, its successors and assigns. Violation of this covenant shall be subject to liquidated damage sum of Twenty Dollars per inch of diameter measured at a point two feet above the average height of the ground at the base of each tree as hereinabove specified for each tree, Twenty Dollars for each shrub and Fifty Dollars for each Dogwood tree removed without authorization, except that the maximum liquidated damage shall not exceed Three Thousand Dollars for any Lot. The recovery of such liquidated damage shall inure to the benefit of the Association or such other part as the Association may from time to time designate, which recovery shall not deemed the exclusive remedy of the Association, the Association also being entitled to injunctive relief and any other relief available to the Association. The Association may give written notice to the violator of any of the restrictions set forth in this paragraph, and, then (10) days after such notice, may perform any required corrective or remedial work on the Lot at the Lot Owner's expense.

7.06. Easement for Club. Original Declarant reserved the following perpetual easements for the benefit of the Club, its members, guest, invitees, employees, agents, successors and assigns:

- (a) an ingress, egress and regress easement over the roads in the Development leading from any public road to the Club Facilities;
- (b) utility easements for the use by the Club Facilities of the water and sewer systems, and other utilities serving the Development;
- (c) such other easements as may be reasonably necessary for the construction, operation, and use by the Club's members, of the Club Facilities.

7.07. Easement for Golf Course Maintenance. The Original Declarant reserved for the benefit of the Association and the Club and their respective successors and assigns a perpetual easement over that portion of the Property which is parallel to and thirty (30) feet in width, and bounded on one side by the entire Lot boundary line in common with the golf course, for the purposes of maintaining a natural buffer area between golf and residential uses. No fence, wall, structure or other improvement other than underground improvements shall be permitted in the easement and no hedge or shrub planted which would obstruct access to property covered by such easement from the golf course shall be placed or permitted to remain in the easement. No plantings, trees or foliage may be removed from this easement area without specific prior approval of the Association, its successors and assigns. Violation of this covenant shall subject the Owner of the Lot from which removal occurred to liquidated damages in the amount of One Hundred Dollars per inch of diameter measure at a point two feet above the average height of the ground at the base for each tree, Twenty Dollars for each shrub, One Thousand Dollars for each dogwood tree and Five Thousand Dollars for each hemlock tree, removed without authorization, except that the maximum liquidated damages shall not exceed Six Thousand Dollars for any Lot. The recovery of such liquidated damages shall inure to the benefit of the Association or such other party as the Association may from time to time designate, including, but not limited to Cullasaja Club, Inc., which recovery shall not be deemed the exclusive remedy of the Association, the Association also being entitled to injunctive relief and any other relief available to the Association. The Association may give written notice to the violator of any of the restrictions set forth in this paragraph, and may, ten (10) days after such notice, perform any required corrective or remedial work on the golf course or Lot at the Lot Owner's expense.

ARTICLE VIII
ENFORCEMENT

8.01. Right of Enforcement. This Declaration and the Restrictions contained herein shall insure to the benefit of and shall be enforceable by (i) the Association and (ii) each Owner, their respective legal representatives, heirs, successors and assigns.

8.02. Right of Abatement.

(a) Except where different notice provisions are provided in Sections 5.11 and 6.17, in the event of a violation or breach of any Restriction contained in this Declaration, the Association shall give written notice by certified mail, to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of said written notice, then the Association shall have the Right of Abatement.

(b) The Right of Abatement, as used in this Section and in Sections 5.11 and 6.17 hereof, means the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists and to take the actions specified in the notice to the Owner to ablate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section, and with the cost thereof including the costs of collection including reasonable attorneys' fees, together with interest thereon at the lower of the highest rate permitted by law or 18% to be a binding, personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of Section 8.04 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, Mortgage, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by Section 4.01 hereof and (iii) all Mortgages given to secure a loan the proceeds of which are used (1) to purchase a Lot(s) or Residence(s) (together with any and all structures which may from time to time be placed or located thereon) and (2) to finance the construction, repair or alteration of Structures.

8.03. Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, heirs, successors, or assigns, by reason of a violation of, or failure to perform any of the obligations provided by, this Declaration; and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

8.04. Collection of Assessments and Enforcement of Lien. If any assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by this Declaration against the Lot or Lots subject to the lien, or both, for the purpose of collecting such assessment, cost or charge, plus any interest thereon and costs of collection, including reasonable attorneys' fees.

8.05. No Waiver. The failure of the Association, or the Owner of any Lot, his or its respective legal representatives, heirs, successors and assigns, to enforce any restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE IX
DURATION AND AMENDMENT

9.01. Duration. This Amended and Restated Declaration and the Restrictions contained herein shall run with the land and shall bind the Property for a period of thirty (30) years from and after the date when this Amended and Restated Declaration is filed of record with the Offices of the Register of Deeds of Macon and Jackson Counties, North Carolina, after which time this Amended and Restated Declaration and the Restrictions shall be automatically renewed for successive periods of ten (10) years provided, however, that after the end of the said thirty (30) year period and during any ten (10) year renewal period (but only during such renewal period), this Declaration and the Restrictions contained herein may be terminated by an instrument executed by the proper Association officers and recorded in the Offices of the register of Deeds of Macon and Jackson Counties, North Carolina, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution approving such termination which is approved by a majority vote of those Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association.

9.02. Amendments. Amendments to this declaration shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by Members of the Association. Such amendment must be approved by Members holding at least a majority of the total votes in the Association provided, however any amendment with materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee.

(c) The agreement of the required percentage of the Owners and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

ARTICLE X
ANNEXATION

Additional real property may be annexed to the Property by the Association. Such annexation shall be accomplished by filing in the office of the Offices of the Register of Deeds of Macon and Jackson Counties, North Carolina an approved subdivision plat describing the real property to be annexed to the Property and by including on such subdivision plat a statement that expressly sets forth the Association intention to make such annexed real property subject to the provisions of this Declaration; or filing an amendment to the Declaration which has been consented to by the owners of the real property to be annexed. No real property may be annexed to the Property unless such annexation *is* approved by a majority voted of the Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association.

ARTICLE XI
MISCELLANEOUS

11.01. No Reverter. No restriction herein is intended to be, or shall be construed as, a Condition subsequent or as creating a possibility of reverter.

11.02. Severability. A determination by a court of competent jurisdiction that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

11.03. Headings. The headings of the Articles and Section hereof are for convenience only and shall not affect the meaning or interpretation of the Contents of this Declaration.

11.04. Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

11.05. Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consent of any kind made pursuant to this Declaration, whether made by the Association, the ACC, the Owner, or any other person, shall be in writing. All such writings shall be sufficient only if deposited in the United States Mail, with sufficient postage, and send to the following addresses:

(a) Association: President
Cullasaja Homeowners' Association, Inc.
1371 Cullasaja Club Drive
Highlands, NC 28741
cc: General Club Manager
(same address)

(b) Owners: Each Owner's address as registered with the Association in accordance with the By-Laws. Any written communication transmitted in accordance with this section 11.05 shall be deemed received on the third (3rd) day following the day such written notice is deposited in the United States mail.

11.06. No Liability. The Association has, using best efforts and all due diligence, prepared and recorded this declaration so that each and every Owner shall have the right and power to enforce the terms and provisions of this declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, The Association shall have no liability of any kind as a result of such unenforceability, and each and every Owner by acceptance of a deed conveying a Lot and/or Residence, acknowledges that the Association shall have no such liability.

11.07. Insurance.

(a) At all times during the term of this Declaration, the Association, its successors and assigns, shall be required to keep any and all recreational facility improvements located on the Common Property fully insured by a reputable insurance company authorized to transact business in the State of North Carolina with (i) fire, vandalism, malicious mischief and extended coverage insurance in an amount adequate to cover the cost or replacement of such improvements in the event of loss of any and/or all of such improvements, fixtures and contents thereof; and (ii) public liability insurance in such amounts as shall be determined by the Board of Directors as appropriate for the type of recreational activities which shall be allowed on the Common Property. Any such policies of insurance shall require that the certificate holders and insured be given thirty (30) days prior written notice of any cancellation of such policies.

(b) Immediately after the damage or destruction by fire or other casualty to all or a portion of an improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty.

Any damage or destruction shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the total Association vote entitled to vote thereon otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available, provided, however, such extension shall not exceed one hundred and twenty (120) days.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Association's Members, levy a special assessment. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited for the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Development in a neat and attractive condition.

(c) The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the persons who are responsible hereunder for maintenance of the damaged or destroyed property.

(d) In addition to the coverage described hereinabove, the Association shall obtain such additional amounts and types of insurance as may be required from time to time, by either the Veterans Administration or Federation Housing Administration, their successors and assigns, for similar type residential subdivision communities.

ARTICLE XII
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Residences in the Development. The provisions of this article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.01. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, guarantor and the Lot and/or Residence number, therefore becoming an “eligible holder”), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Lot and/or Residence on which there is a first Mortgage held, insured, or guaranteed by such eligible holder:

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot and/or Residence subject to the Mortgage of such eligible holder where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot and/or Residence of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days;

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

(d) any proposed action which would require the consent of a specified percentage of eligible Mortgagees.

12.02. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two thirds (2/3) of the first Mortgagees or at least two-thirds (2/3) of the total Members of the Association vote entitled to vote thereon consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot and/or Residence;

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residences and of the Common Property (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstructions of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums of casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

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

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

12.05. Amendment by Board. Should the Veterans Administration, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

12.06. Applicability of Article XII. Nothing contained in this article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or North Carolina law for any of the acts set out in this Article.

12.07. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

“EXHIBIT A”
TO COMPLETE MODIFICATION AND RE-STATEMENT OF THE
DECLARATION OF COVENANTS, RESTRICTONS AND EASEMENTS
FOR CULLSASAJA CLUB SUBDIVISION

Being all of the lands, easements, privileges and appurtenances heretofore subjected to the Declaration of Covenants, Restrictions and Easements for Cullasaja Club dated May 5, 1987, recorded in Book H-17 at Page 266, Macon County Public Registry, and in Book 658 at Page 714, Jackson county Public Registry; as amended by First Amendment to the Declaration dated August 27, 1987, recorded in Book L-17 at Page 344, Macon County Public Registry, and in Book 672 at Page 20, Jackson County Public Registry; as further amended by Second Amendment to Declaration dated January 31, 1990, recorded in Book P-18 at Page 148, Macon County Public Registry, and in Book 832 at Page 48, Jackson County Public Registry; as further amended by Third Amendment to Declaration dated August 4, 1995, recorded in Book X-19 at Page 1046, Macon county Public Registry, and I Book 746 at Page 345, Jackson County Public Registry; and as further amended by Amendment to declaration dated January 15, 2000, recorded in Book Z-20 at Page 879, Macon County Public Registry, and in Book 898 at Page 689, Jackson County Public Registry.

Including without limitation all the lands shown on all plats of the Cullasaja Club Subdivision recorded in the Macon County and Jackson County, North Carolina Public Registries.

Including without limitation all real property described in and conveyed by the deed from Golf Properties, Inc. to Security Savings & Loan Association recorded in Book C-15, Page 79, Macon County Public Registry, and in Book 560, Page 21, and Jackson County Public Registry.

Including without limitation all the lands shown on the plat recorded on Plat Card 77 and 78, Macon County Public Registry, and in Plat Cabinet 4, slides 179 and 180, Jackson County Public Registry.