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TISH JOHNSON, C.S.C.  
BARTOW COUNTY, GA.

STATE OF GEORGIA  
COUNTY OF BARTOW

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR WESTSIDE CHASE**

THIS DECLARATION, made this 16<sup>th</sup> day of June, 1999, by WESTSIDE CHASE, LLC, (hereinafter referred to as "Developer").

**WITNESSETH**

WHEREAS, Developer is the owner and developer of certain real property lying and being in Land Lot 855, 4<sup>th</sup> District, 3<sup>rd</sup> Section, Bartow County, Georgia, and being more particularly described and delineated on Exhibit "A" attached hereto and hereby incorporated by this reference;

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values in WESTSIDE CHASE, and for the maintenance of the properties and improvements thereon, and to this end desires to subject the property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of the Property; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values in WESTSIDE CHASE, to provide for an agency to which should be delegated and assigned the powers of owning, maintaining and administering the Common Area and improvements thereon and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer will cause to be incorporated under the laws of the State of Georgia the WESTSIDE CHASE HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as "Association") for the purpose of exercising the aforesaid powers.

NOW, THEREFORE, except as specifically set forth herein, Developer hereby declares that all of the properties described above shall be held, sold, 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 real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

NOTWITHSTANDING THE ESTABLISHMENT OF WESTSIDE CHASE HOMEOWNERS ASSOCIATION, INC. AND THE SUBMISSION OF THE PROPERTY TO THE TERMS AND CONDITIONS OF THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR WESTSIDE CHASE, WESTSIDE CHASE IS NOT A CONDOMINIUM AS DEFINED IN THE GEORGIA CONDOMINIUM ACT.

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ARTICLE I  
DEFINITIONS

Section 1. "Architectural Control Committee" shall mean and refer to WESTSIDE CHASE, LLC, or such other individuals as they may appoint, until all lots in WESTSIDE CHASE have been fully developed and permanent improvements constructed thereon and sold to permanent residents, or at such other time as it, in its sole discretion, shall turn the same over to the Association.

Section 2. "Association" shall mean and refer to the Board of Directors of the Association.

Section 3. "Board" shall mean and refer to the Board of Directors of the Association.

Section 4. "Common Area" shall mean all real and personal property now or hereafter owned, or for which easement rights have been granted, by the Association for the common use and enjoyment of the Owners and shall include an easement for the maintenance of the landscape as designated on the plat WESTSIDE CHASE filed in the records of BARTOW County, Georgia.

Section 5. "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to the Declaration and the By-laws and Articles of Incorporation of the Association.

Section 6. "Developer" shall mean and refer to WESTSIDE CHASE, LLC, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Developer for the purpose of development and if said successors or assigns are named as Developer in any instrument of conveyance of said lots.

Section 7. "Declaration" shall mean the covenants, conditions, restrictions and easements and all other provisions herein set forth in this entire document, as may from time to time be amended.

Section 8. "Lot" shall mean and refer to any improved or unimproved plot of land shown upon any recorded final subdivision map of any part of the Properties with the exception of the Common Area.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any lot which is part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 11. "Property" shall mean and refer to that certain real property described on the plat hereinabove referenced.

Section 12. "Unit shall mean and refer to any portion of a structure situated upon the Property designed and intended for use and occupancy as a single family residence.

Section 13. "Structure" shall mean and refer to:

(i) 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, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(ii) any excavation, grading, fill ditch, diversion dam or other thing, object 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

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

ARTICLE II  
ARCHITECTURAL CONTROL COMMITTEE

Section 1. The Architectural Control Committee. An Architectural Control Committee consisting of two (2) or more persons shall be appointed by the Board.

Section 2. Purpose. The Architectural Control Committee shall regulate the external design, appearance, use, location and maintenance of the Property and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. Nothing herein shall give the Architectural Control Committee authority to regulate, control or determine external design, appearance, use or location of units to be constructed or marketed or sold by the Developer, its successors or assigns.

Section 3. Conditions. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade, changes in landscaping or other work which in any way alters the exterior of any property or the improvements located thereon from its natural or improved site existing on the date such Lot was first conveyed in fee by the Developer to a Unit Owner shall be made or done without the prior approval of the Architectural Control Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, sidewalk, driveway, deck, patio, swimming pool, tennis court, greenhouse, playhouse, garage, guest or servants' quarters, residence or other outbuilding shall be

commenced, erected, maintained, or improved, altered, made or done without the prior written approval of the Architectural Control Committee.

Section 4. Procedures. Any Owner desiring to make improvements or changes with respect to his Lot (other than improvements or changes to the interior of his Unit, provided such interior changes do not alter the structural integrity of such Unit or adjacent Living Units) shall submit to the Architectural Control Committee plans and specifications showing the nature, color, type, shape, height, materials and location of the proposed improvements and/or changes. Such plans and specifications shall be of such scope and form as may be reasonably required by the Architectural Control Committee. Samples of materials and finishes must be submitted if requested by the Architectural Control Committee. The Architectural Control Committee shall have the sole discretion to determine whether the plans and specifications submitted for approval are acceptable to the Association, and the Architectural Control Committee shall be entitled and empowered to enjoin or remove any construction undertaken pursuant to plans and specifications which have not been approved in writing by the Architectural Control Committee. Any costs and expenses incurred by the Association in enjoining or removing any construction or improvements not previously approved in accordance herewith shall be added to and become a part of the assessment to which the Owner and his Lot are subject. In the event the Architectural Control Committee fails to approve or disapprove in writing any proposed plans and specifications within forty-five (45) days after such plans and specifications shall have been submitted to the Architectural Control Committee, such plans and specifications shall be deemed to have been expressly approved.

Section 5. Liability of Architectural Control Committee. Neither Developer, the Board, its Designee, the Association, nor any member of the Architectural Control Committee shall be liable in damages to anyone submitting plans and specifications for approval hereunder or to any Unit Owner of a Lot affected by this Declaration 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 and specifications. No member of the Architectural Control Committee shall be responsible or liable in any way for any defects of any nature in any plans or specifications submitted, revised, or approved, or for the safety, quality or workmanship of any construction undertaken in accordance with any such plans and specifications. By submission of plans and specifications to the Architectural Control Committee, every Owner of any Lot releases and agrees to hold harmless and defend all members of the Architectural Control Committee from any such alleged liability, claim, loss or damage, 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. Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither the Architectural Control Committee, the Board, its Designee, nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications.

Section 6. Right of Inspection. The Architectural Control Committee, its agents and representatives, shall have the right during reasonable hours to enter upon and inspect any Lot or

Structures 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 the Architectural Control Committee shall not be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection.

ARTICLE III  
PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to adopt and publish rules and regulations governing the use of the Common Area.
- (b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members;
- (c) no such decision or transfer shall be effective unless an instrument agreeing to such dedication of transfer signed by two-thirds (2/3) of each class of members has been recorded;
- (d) the right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon, and, upon the assent of two-thirds of the Class A members and their mortgagees and the Class B member, if any, to give as security a mortgage conveying all or any portion of the Common Area; the lien and encumbrance of any such mortgage, however, shall be subject and subordinate to all rights, interests, easements and privileges herein reserved or established for the benefits of the Developer, any Owner, or the holder of any mortgage, irrespective of when executed, given by Developer or any Owner.
- (e) the easements reserved in Article VI of this Declaration.

Section 2. Initial Common Area. The Common Area to be provided by the Developer consists solely of easements and/or land for maintenance of the landscape. Every Owner, by acceptance of a deed to a Lot, acknowledges that Developer has no obligation to provide any other Common Area, and does not intend to provide swim/tennis amenities within WESTSIDE CHASE. Developer has provided for mandatory assessments as set forth herein to assure a method by which the Owners can maintain

the landscape area and enforce this Declaration. In the event the Owners obtain additional Common Area at some time in the future then this Declaration has been drafted to accommodate such event.

Section 3. Leases.

- (a) No Unit shall be leased by an Owner other than Developer for a term shorter than six (6) months or greater than two (2) years. The lessee under every such lease shall be bound by and subject to all of the obligations under the Declaration, the Bylaws and the Articles of Incorporation of the Association and the rules and regulations promulgated thereunder. The lease of any Unit shall expressly provide that failure of a tenant or lessee to abide by the provisions of the Declaration, the Bylaws or the Articles of Incorporation of the Association, including the Association's rules and regulations, shall be an event of default thereunder. The restrictions hereof relating to the period of lease terms shall not apply to leases of Units owned by Developer as long as there shall be a Class B member of the Association.
- (b) In the event of a default under any lease with respect to a Unit, the Association may exercise against the lessee or tenant thereunder any and all remedies available to the Association under the Declaration.
- (c) All leases shall be in writing. The Owner of the Unit shall provide a copy of the written lease to the Association promptly upon execution of the lease. No lease shall be of less than the entire Unit.

Section 4. Title to Common Area. Title to any Common Area will be conveyed to the Association by the Developer free and clear of all liens and encumbrances, excluding (1) taxes for the current year which are not yet due and payable; (2) easements recorded, if any; and (3) zoning restrictions.

Section 5. Lots. Each Lot shall for all purposes constitute real property which shall be owned in fee simple. Each Owner shall be entitled to the exclusive ownership and possession of his Lot, subject to the provisions of this Declaration and zoning restrictions. Lots shall not be subdivided, and the boundaries between the Lots shall not be relocated.

Section 6. Delegation of Use. Any Owner may delegate, in accordance with the By-laws, his right or use and enjoyment in and to the Common Area and the improvements thereon to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE IV  
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to this Declaration shall be a mandatory member of the Association. The foregoing and the term "Owner" is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to an Owner's successor-in-title to the Lot.

Section 2. Voting Rights. The association shall have two classes of voting membership:

Class A: Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B member(s) shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total outstanding in the Class B membership; or
- (b) seven years from the date of this Declaration; or
- (c) when in its discretion, Developer so determines.

All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles of Incorporation and Bylaws of the Association.

Section 3. Amplification. The provisions of this Article are to be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners as set forth herein. In the event of any conflict or inconsistencies between this Declaration, the Articles of Incorporation or the Bylaws of the Association, this Declaration and the Articles of Incorporation (in that order) shall prevail.

ARTICLE V  
COVENANT FOR MAINTENANCE AND ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner, other than Developer, of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be charged on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for promoting the health, safety, pleasure and welfare of the Unit Owners of the Property and the costs and expenses incident to the operation of the Association, including without limitation the maintenance and repair of any Common Area, the maintenance of services furnished by the Association, the purchase of insurance by the Association, the repair and replacement of improvements, if any, on any Common Area and payment of all taxes and insurance premiums and all costs and expenses incidental to the operation and administration of the Association.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be THREE HUNDRED SIXTY DOLLARS (\$360.00) per Lot per year.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than twenty percent (20%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above twenty percent (20%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any



construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast seventy-five percent (75%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be two-thirds (2/3) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Capital Reserve. The Association shall maintain a capital reserve fund of twenty percent (20%) of yearly revenues to insure that the Association will have sufficient assets to meet unforeseen expenditures.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on the date set by the Board of Directors of the Association. At the time of closing into a purchaser of a completed unit, said annual assessments whether collected on a monthly or yearly basis, shall be prorated as of the date of closing. Anything contained herein to the contrary notwithstanding, Developer or any Builder building for the purpose of resale shall not be responsible for assessments on Lots owned by the Developer or Builder. The due dates shall be established by the Developer until there is no longer a Class B member and then by the Board. The Association shall, upon demand, and for a reasonable charge, not to exceed THIRTY DOLLARS (\$30.00), furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a specified Lot is binding upon the Association as of the date of its issuance. If the Association fails to respond to any written request within twenty (20) days after receipt of such request, any lien then outstanding shall be deemed to have been extinguished.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments not paid within thirty (30) days after the due date, shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. The Owner shall be responsible for all costs of collection, including but not limited to reasonable attorney's fees. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or abandonment of his lot.

Section 10. Subordination of Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Area; and (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens except as set forth in Article V, Section 8, pertaining to the Developer and/or Builder.

ARTICLE VI  
EASEMENTS

Section 1. Encroachment Easements. In the event any portion of the Common Area encroaches upon any Unit or any unit encroaches on the Common Area as a result of construction, reconstruction or repair, shifting, settlement or movement of any portion of the Properties, a valid easement for the encroachment and for the maintenance of same shall exist so long as the encroachment exists.

Section 2. Utility Easements. There is hereby created in favor of the Association an easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to water, sewers, gas, telephones, electricity, television cable or communication lines and systems. An easement is further granted to the Association, its officers, agents, employees and any management company retained by the Association, to enter in or to cross over the Common Area and the Lots, to inspect and to perform the duties of maintenance and repair of the Common Area and the Lots, as provided herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Developer or thereafter approved by Developer or the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by a separate recordable document, Developer or the Association shall have the right to grant such easement on the Common Area without conflicting with the terms hereof.

Section 3. Structural Support. Every portion of the Common Area or of a Lot or any other improvement which contributes to the structural support of another portion of the Common Area or

of another Lot or other improvement shall be burdened with an easement for structural support and each Lot shall also have the right to lateral support which shall be appurtenant to and pass with title to such Lot.

Section 4. Easement for Developer. Developer hereby reserves for itself, its successors and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property described on Exhibit "A", the Common Area or any property hereafter owned by Developer and subjected to these Covenants or reasonably required by Developer for so long as Developer owns any Lot primarily for the purpose of sale:

- (a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary to proper attachments in connection with the transmission of electricity, gas, water, telephone, community antennae, television cables and other utilities;
- (b) For the construction of improvements on the Lots;
- (c) For the installation, construction and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;
- (d) For the use of the Common Area and any sales office, model units and parking spaces in connection with its efforts to market Lots;
- (e) For the maintenance of such other facilities and equipment as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots.

Section 5. Easements for Association. There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any management company retained by the Association, to enter upon the Common Area and the Lots to perform their respective duties.

Section 6. Maintenance of Unit. Each Unit Owner shall have an easement of use over the property adjoining such Unit Owner's lot as shall be reasonably necessary to enable such Unit Owner to perform required maintenance on his Unit. This easement shall be exercised in such a manner as not to materially interfere with the use, occupancy or enjoyment of all or any part of such adjoining property.

ARTICLE VII  
GENERAL COVENANTS AND RESTRICTIONS

The following covenants and restrictions shall apply to all Lots and to all Structures erected or placed thereon:

Section 1. Residential Use. No business activities shall be conducted on any portion of the property; provided, however, the foregoing restriction shall not apply to the business activities signs and billboards of the Developer, its agents or assigns during the sale period. Notwithstanding, a Unit Owner may use a portion of his Unit to "do work at home", but may not run, operate, maintain, or control his business from his Unit.

Section 2. Common Area. The Common Area shall be used only by the Owners and their agents, servants, tenants, family members, invitees and licensees for access, ingress to and egress from their respective Lots and for such other purposes as may be authorized by the Association.

Section 3. Nuisances.

- (a) No unlawful, noxious or offensive activities shall be carried on in any Lot, or upon the Common Area, nor shall anything be done therein or thereon which, in the judgment of the Board, constitutes a nuisance, causes unreasonable noise or disturbance of others or unreasonably interferes with other Owners' use of their Lots and/or the Common Area.
- (b) No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of an Owner's Lot so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Property or any portion thereof.

Section 4. Re-subdivision of Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, without the prior written approval of the Architectural Control Committee.

Section 5. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Architectural Control Committee of plans and specifications for the prevention and control of such erosion or siltation. The Architectural Control Committee 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.

Section 6. Landscaping. No trees, except during initial construction, shall be removed from any lot. No planting, transplanting, or gardening shall be done except as approved by the Architectural Control Committee. No construction or alteration of any Structure shall take place without the prior written approval by the Architectural Control Committee of plans and specifications for the landscaping to accompany such construction or alteration.

Section 7. 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 desired for security purposes in accordance with plans and specifications therefore approved by the Architectural Control Committee. No structures of temporary character shall be erected or permitted to remain on any Lot except during the original construction period of the unit prior to use as a permanent residence. The placement or construction of a temporary structure for use as an office, sales center or model home by Developer or by a builder shall not constitute a violation of this section provided the same has been approved by the Developer or Architectural Control Committee, whichever is applicable.

Section 8. Signs.

- (a) No signs whatsoever (including, but not limited to commercial and similar signs) shall, without the Architectural Control Committee's prior written approval of plans and specifications therefor, 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) not more than one "For Sale" or "For Rent" sign; provided, however, that in no event shall any such sign be larger than six (6) square feet in area with no artificial lighting; and
  - (iii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the Architectural Control Committee.
- (b) Following the consummation of the sale of any Lot, the "For Sale" sign and the builder's sign located thereon, if any, shall be removed prior to permanent occupancy.

Section 9. Fences and Walls. No fence or wall of any kind shall be erected, maintained, or altered on any Lot unless it shall be approved by the Architectural Control Committee. No chain link

fencing shall be allowed. Any fence erected shall be no closer than ten (10) feet to the rear property line. Nothing shall be erected, placed or altered on any Lot nearer to any street than the building setback lines delineated on the recorded Plat unless the same shall be walls of masonry construction or railroad ties which do not, in any event, rise above the finished grade elevation of the earth embankments so retained, reinforced or stabilized, except that this restriction shall not apply to that which has been approved by the Architectural Control Committee.

Section 10. Roads and Driveways. No road or driveway shall be constructed or altered on any Lot without the prior written approval of the Architectural Control Committee.

During approved construction, all vehicles in any way connected with such construction shall enter the Lot or Lots under construction only by the driveway as approved in the plans by the Architectural Control Committee. In no event shall any driveways other than those approved by the Architectural Control Committee be constructed or used for temporary access to any Lot. All vehicles shall be parked at the Lot to avoid damage to trees, paving, curbs, gutters and any other improvements on the Lot.

Section 11. Antennae. No antenna, satellite dish or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on the exterior of any Structure without the prior written approval of the Architectural Control Committee. In no event shall freestanding transmission or receiving towers be permitted.

Section 12. Clotheslines. No outside clotheslines shall be placed on any Lot. No hanging of any laundry within or outside the dwelling within the public view. Clothing, rugs or other items shall not be hung on any railing, fence, hedge or wall.

Section 13. Recreational Vehicles, Trailers, etc. Parking or storage of large vehicles, including (but not limited to) boats, large trucks, trailers, campers, mobile homes, horse trailers, vans, recreational vehicles and similar vehicles, are not permitted in the driveway, streets or any parking areas. Any exceptions to this restriction shall be at the discretion of the Architectural Control Committee. Nothing contained herein shall prohibit the use of portable or temporary buildings for trailers as field offices by contractors during actual construction.

Section 14. Recreational Equipment. No recreational and playground equipment shall be placed or installed on any Lot which is visible from the street abutting such Lot without the approval of the Architectural Control Committee. Portable basketball goals may be placed on said property, however, the type, style and placement shall be submitted and approved by the Architectural Control Committee prior to installation. Said portable basketball goal shall not be left visible overnight.

Section 15. Accessory Structures. Subject to the rights of Developer in connection with development of the Property and sale of the Units, no structure of a temporary character, trailer, tent,

shack, garage, barn, or other outbuildings shall be permitted on the Property at any time temporarily or permanently except with the prior written consent of the Architectural Control Committee.

Section 16. Animals. 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 first been approved by the Architectural Control Committee and same complies with the Bartow County Animal Control Ordinance. In no case shall such structure or confinement be permitted in the front of the house. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any pet shall be constructed or maintained on any part of the Common Area, and no such structure shall be constructed or maintained within any balcony, deck, patio or terrace area unless the same shall be approved in advance in writing by the Architectural Control Committee. Pets shall be under leash when walked or exercised in any portion of the Common Area. No pet shall be permitted to leave its droppings on any portion of the Common Area, and the owner of such pet shall immediately remove the same. Upon the written request of any Unit Owner, the Architectural Control Committee shall conclusively determine, in its sole and absolute discretion, whether, for purposes of this section, a particular pet is permitted or such pet is a nuisance, and the Architectural Control Committee shall have the right to require the owner of a particular pet to remove such pet from the Property if such pet is found to be a nuisance or to be in violation of these restrictions.

Section 17. Water Supply. No individual water supply system shall be permitted on any Lot without the prior written approval of the Architectural Control Committee. If such approval is given, such system must be located, constructed and equipped in accordance with the requirements, standards and recommendations of federal, state and local public health authorities, and all necessary approvals of such system as installed shall be obtained from such authorities at the sole cost and expense of the Owner of the Lot to be served by such system.

Section 18. Screening. All equipment, trash containers and wood piles shall be kept screened by adequate planting of fencing so as to be concealed from view from all other Lots or from all public rights-of-way. Said screening or fencing shall be approved by the Architectural Control Committee prior to installation.

Section 19. Commercial Vehicles. No panel, commercial, or tractor truck over six wheels shall be parked in driveways or over night on streets in front of any Lots.

Section 20. Inoperable Vehicles. Any vehicle without a current year tag and/or is inoperable shall be towed away at the expense of the owner of the Lot on which said vehicle sits.

Section 21. Hobbies or Activities. The pursuit of hobbies or activities, including, without limiting the generality of the foregoing, the assembly or disassembly or motor vehicles or other

mechanical devices which might tend to cause disorderly, unsightly, or unkept conditions shall not be undertaken on or in any structure, yard area of a Lot, in any driveway, garage, or other place where such activity is visible from any street.

Section 22. Parking. No vehicle shall be parked on any street over night except in the case of an emergency, but in no case for more than seventy-two (72) hours.

Section 23. Owner's Responsibilities. Each Owner of a Lot, whether vacant or occupied, shall keep and maintain his Lot and the exterior of any and all improvements located thereon, in a neat, attractive and safe condition. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing and care for roofs, gutters, down-spouts, building surfaces, trees, shrubs, grass, walks and other exterior improvements. Should any Owner of a Lot fail to maintain his Lot or the improvements thereon as set forth hereinabove, the Architectural Control Committee, or the Association, its agents and representatives, may, after thirty (30) days written notice to the Owner of such Lot, enter upon his Lot for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, for removing garbage or trash, or for performing such exterior maintenance as the Architectural Control Committee, in the exercise of its sole discretion, deems necessary or advisable. Such Owner shall be personally liable to the Architectural Control Committee for direct and indirect cost of such maintenance, which costs shall be added to and become a part of the assessment to which such Owner and his Lot are subject. Although notice given as herein provided shall be sufficient to give the Architectural Control Committee, its agents and representatives, the right to enter upon such Lot and perform such maintenance, entry for such purpose shall be only between the hours of 8:00 A.M. and 5:00 P.M. of any day except Sunday. The provisions hereof shall not be construed, however, as an obligation on the part of the Architectural Control Committee or Association to mow, clear, cut or prune any Lot, to provide garbage or trash removal service or to perform such exterior maintenance.

Section 24. Grassing. The entire front and side yards of a Lot which are visible from any street must be planted with grass or other suitable ground cover.

Section 25. Awning, Shades and Windowboxes. No awning, shades or windowboxes shall be attached to, hung or used on the exterior of any window or door of any unit without the prior written approval of the Architectural Control Committee.

Section 26. Oil Drilling Equipment. No oil drilling, oil drilling operations, oil refining, quarrying, mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas be erected, maintained or permitted upon or in any Lot.

Section 27. Motorcycles. Motorcycles, motorbikes, motor scooters or other similar vehicles shall not be operated within the Property except for the purpose of transportation, it being intended



that said vehicles shall not be operated within the Property so as to annoy or disturb persons or endanger persons or property.

Section 28. Trash Removal. No lumber, materials, bulk materials, refuse or trash shall be kept, stored, or allowed to accumulate on any lot except building materials during the course of construction, maintenance, or repair by the Developer of any approved structure. Trash, garbage or other waste shall not be kept except in sanitary containers and such shall not be permitted to remain in public view except on days of trash collection. All containers or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. If a central trash collection area is designated by the Association, then these areas will be under the control of the Association and all members will abide by the current regulations regarding the use of these trash enclosures.

Section 29. Storage. Patios, balconies, decks, walkways, or any area open to general view are not to be used for storage of any kind.

**ARTICLE VIII  
UNITS OCCUPIED BY NON-OWNERS**

Any and all units occupied solely by a non-owner shall remain subject to this declaration. Any violation by one or more of said non-owners will subject said non-owner to immediate removal from the occupied unit if the Board of Directors so desire or if a majority of the homeowners vote in favor of such removal.

In the case of a violation of any provision contained in this declaration, the owner of the unit in question will receive written notice and no action will be taken on said violation for ten (10) days.

**ARTICLE IX  
ADDITIONAL PARKING AREA FOR UNIT OWNERS**

Located within the common area as defined herein will be an additional parking area for all Owners. A waiting list will be maintained for said area by the Association. Each Owner will be entitled to no more than one parking space (when available). No vehicle with more than 6 wheels/2 axles will be allowed in any parking space at any one time.

**ARTICLE X  
PARTY WALLS**

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Units upon the Property and placed on the dividing line between the Lots shall

constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, a Unit Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Unit Owner to contribution from any other Unit Owner under this Article shall be appurtenant to the land and shall pass to such Unit Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. For purposes of this Section 6, the arbitrator(s) shall be approved by the American Association of Arbitrators.

ARTICLE XI  
INSURANCE AND CASUALTY LOSS

Section 1. Association Insurance. The Board of Directors or the duly authorized agent of the Association shall have the authority to and shall obtain or cause to be obtained the following Insurance:

- (a) for all Insurable improvements, whether or not located on common Property, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amount;

- (b) a public liability policy covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents; and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million Dollars (\$1,000,000.00); and
- (c) such other insurance necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Housing and Urban Development ("HUD"), the U.S. Department of Veterans Affairs ("VA"), or other applicable laws deemed necessary in the sole discretion of the Board.

Section 2. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each owner acknowledges that, except as provided in this Declaration to the contrary, the Association has no obligation to provide any insurance for any portion of individual Lots, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times. Authority to adjust losses under policies obtained by an owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within ten (10) days after receipt by the Owner of a written request from the Association. If the Association does acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Lot as a specific assessment.

ARTICLE XII  
DAMAGE OR DESTRUCTION

In the event of damage or destruction to any structure within the subdivision, the respective owner thereof agrees as follows:

- (i) In the event of total destruction, the Owner shall immediately take action to waterproof the exposed firewalls of the adjoining units with waterproof materials approved by the Architectural Control Committee and promptly clear the lot of debris and leave the same in a neat and orderly condition. The Owner shall, as promptly as an insurance adjustment may be made, cause the damage or destruction to be repaired and restored

in a first class condition in accordance with the plans and specifications of the original structure and in conformity with its original exterior painting and decor. Any such rebuilding and reconstruction shall be accomplished in conformity with the plans and specifications of the original structure so destroyed, subject to any changes or modifications as approved by the Architectural Control Committee.

- (ii) In the case of partial damage or destruction, the Owner shall, as promptly as an insurance adjustment may be made, cause the damage or destruction to be repaired and restored in a first class condition in accordance with the plans and specifications of the original structure and in conformity with its original exterior painting and decor. Any change or alteration must be approved by the Architectural Control Committee.
- (iii) In no event shall any damaged structure be left unrepaired and unrestored for in excess of sixty (60) days. If the firewall of any adjoining unit is exposed owner shall take action to waterproof as provided in Article XII(i) above.

**ARTICLE XIII  
GENERAL PROVISIONS**

**Section 1. Enforcement.**

- (a) The Association, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- (b) The Architectural Control Committee shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the mailing of written notice of such violation or breach. The right of abatement means the right of the Architectural Control Committee, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation or breach exists, and to take such reasonable action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions. Such Owner shall be personally liable to the Architectural Control Committee for any costs or expenses incurred in enjoining and/or removing any construction or improvements, which costs shall be added to and become a part of the assessment to which such Owner and Lot are subject.

Section 2. Severability. If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 3. Headings. The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, at the end of which period such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each.

Section 5. Rights and Obligations. Each grantee of the Developer and Owners, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits, privileges of every character hereby imposed shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in the Property or any portion thereof, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 6. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 7. Amendment by Developer Before Turnover. Before turnover of control by Developer, this Declaration may be amended at any time and from time to time, by Developer and a vote of two-thirds (2/3) of the Lot Owners other than Developer. This Declaration may be amended unilaterally by Developer if:

- (a) such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith,
- (b) such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration,

- (c) such amendment is required to obtain the approval of this Declaration by an institutional lender, such as a bank, savings and loan association or life insurance company, or by a governmental lender or purchaser of mortgage loans, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration, or
- (d) such amendment is necessary to enable any governmental agency, such as the Veterans Administration, or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration. Such amendment would not include the right to re-plat Lots or the Common Area unless limited to changes specifically required by a reviewing agency to meet its requirements.

Section 8. Amendment After Turnover by Developer. This Declaration may be amended at any time and from time to time, after turnover of control by Developer, by an agreement signed by at least seventy-five (75%) percent of the Owners of Lots; provided, however, such amendment by the Owners shall not be effective unless also signed by Developer, if Developer is the owner of any real property then subject to this Declaration. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot or the Common Area affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that this Declaration may be amended as provided in this Section.

Section 9. Condemnation. Whenever any part of the Common Property shall be taken by any authority having the power of condemnation or eminent domain, the award made for such taking shall be payable to the Association and unless otherwise provided by law at the time of such taking, any award made therefore shall be deposited by the Association and disbursed as hereinafter provided. The Association shall determine whether to restore or replace the common property so taken. If there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then, subject to the consent of the Common Property so taken, such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

Section 10. Partition. The Common Property shall remain undivided and no Owner nor any other person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property and without the written consent of all holders of all mortgages encumbering any portion of the property.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set its hand and seal this 16<sup>th</sup> day of June, 1999.

WESTSIDE CHASE, LLC  
Developer

*William B. Hix*

William B. Hix

*E. Dwayne Ferguson*

E. Dwayne Ferguson

*James W. Portner*  
Witness



EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 855 OF THE 4<sup>TH</sup> DISTRICT, 3<sup>RD</sup> SECTION OF BARTOW COUNTY, GEORGIA; AND BEING THAT CERTAIN 10.01 ACRES, AS PER PLAT OF SURVEY PREPARED BY CHARLES C. FRANKLIN OF CENTERLINE SURVEYING SYSTEMS, INC., REGISTERED LAND SURVEYOR NUMBER 2143, FOR WESTSIDE CHASE, LLC, DATED MARCH 18, 1998 AND RECORDED IN PLAT BOOK 47, PAGE 166, BARTOW COUNTY, GEORGIA RECORDS, WHICH PLAT BY REFERENCE IS INCORPORATED HEREIN AND MADE A PART HEREOF.

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