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STATE OF GEORGIA

COUNTY OF STEPHENS

Cross Reference to:  
Amended and Restated Charter: Deed Book 674, Page 357  
Third Assignment: Deed Book \_\_\_\_, Page \_\_\_\_

**AMENDMENT AND RESTATEMENT OF THE  
COMMUNITY CHARTER  
FOR  
CURRAHEE CLUB**

This Amendment and Restatement of the Community Charter for Currahee Club (the "**Community Charter**") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by CURRAHEE CLUB DEVELOPMENT, LLC, a Georgia limited liability company, its successors and assigns (the "**Founder**").

**W I T N E S S E T H:**

WHEREAS, Currahee Club, LLC recorded the Community Charter for Currahee Club in Deed Book 603, Page 404, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia (hereinafter referred to as the "**Original Charter**"); and

WHEREAS, Currahee Club, LLC transferred and assigned its status and all of its rights as "Founder" under the Original Charter to Currahee Partners, LLC, a Georgia limited liability company, in such instrument recorded in Deed Book 674, Page 354, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia (the "**First Assignment**"); and

WHEREAS, Currahee Partners, LLC amended, restated, replaced, and superseded the Original Charter by recording that Community Charter for Currahee Club in Deed Book 674, Page 357, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia (hereinafter referred to as the "**Amended and Restated Charter**"); and

WHEREAS, Exhibit "A" to the Amended and Restated Charter identified all of the real property initial subjected to the Amended and Restated Charter; and

WHEREAS, Currahee Partners, LLC recorded that "Supplement to the Community Charter for Currahee Club" in Deed Book 765, Page 111, *et seq.*, in the Office of the Clerk of the Superior Court of

Stephens County, Georgia ("**First Supplement**"), which subjected the property described therein to the Amended and Restated Charter; and

WHEREAS, Currahee Partners, LLC recorded that "Supplement to the Community Charter for Currahee Club (Parcel X – Coneflower Lane Cottages)" in Deed Book 873, Page 1, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia ("**Second Supplement**"), which subjected the property described therein to the Amended and Restated Charter and imposed additional covenants and easements on such property; and

WHEREAS, Currahee Partners, LLC transferred and assigned its status and all of its rights as "Founder" under the Amended and Restated Charter to Real Property Holding – Toccoa, GA, LLC, a Delaware limited liability company, pursuant to that Deed Under Power of Sale recorded in Deed Book 935, Page 349, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia (the "**Second Assignment**"); and

WHEREAS, Real Property Holding – Toccoa, GA, LLC transferred and assigned its status and all of its rights as "Founder" under the Amended and Restated Charter to Founder in an instrument recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia (the "**Third Assignment**"); and

WHEREAS, Founder recorded that "Supplement to the Community Charter for Currahee Club" in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia ("**Third Supplement**"), which subjected the property described therein to the Amended and Restated Charter; and

WHEREAS, pursuant to Section 21.1 of the Amended and Restated Charter, Founder, until termination of the Founder Control Period, may unilaterally amend the Amended and Restated Charter for any purpose; and

WHEREAS, pursuant to Section 10.6 of the "By-Laws of Currahee Club Property Owners Association, Inc." ("**By-Laws**"), Founder, until termination of the Founder Control Period, may unilaterally amend the By-Laws; and

WHEREAS, the Founder Control Period has not yet terminated; and

WHEREAS, Founder desires to further amend and restate the Amended and Restated Charter to reflect the change of the Founder in accordance with the Third Assignment and other purposes; and

WHEREAS, Founder also desires to amend the By-Laws to reflect changes made to the Amended and Restated Charter and other purposes;

NOW THEREFORE, the Amended and Restated Charter is hereby amended, restated, replaced, and superseded in its entirety by and with the attached Community Charter for Currahee Club as supplemented by the First Supplement, Second Supplement, and Third Supplement which shall remain in full force and effect. Furthermore, the By-Laws are hereby amended, restated, replaced, and superseded in its entirety by and with the By-Laws attached as Exhibit "E" to the attached Community Charter for Currahee Club:

**COMMUNITY CHARTER**

**FOR**

**CURRAHEE CLUB**



**CURRAHEE  
CLUB**

HYATT & STUBBLEFIELD, P.C.  
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225 Peachtree Street, N.E.  
Atlanta, Georgia 30303

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# COMMUNITY CHARTER FOR CURRAHEE CLUB

## PREAMBLE

**CURRAHEE CLUB DEVELOPMENT, LLC**, a Georgia limited liability company, as the founder of Currahee Club, has established and recorded this Community Charter ("**Community Charter**" or "**Charter**") to provide a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, operation, maintenance, and preservation of Currahee Club as a master planned community. The term "Community Charter" is purely a term of art and the provisions set forth herein are to be given the same force and effect as if the Charter had been called by its more commonly recognized and archaic name of a "Declaration of Covenants, Conditions, and Restrictions." An integral part of the development plan is the Currahee Club Property Owners Association, Inc., a Georgia nonprofit corporation (the "**Association**"), whose membership consists of all owners of real property in Currahee Club, formed to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Charter and the other Governing Documents referenced in this Charter.

## DECLARATION OF COVENANT

The "**Community**" referred to in this Charter consists of the property described in Exhibit "A" and any additional property made subject to this Charter in the future by amendment or supplement, as provided for in the following Chapters. This Charter shall run with the title to such property, binding not only Currahee Club Development, LLC, a Georgia limited liability company, its successors and assigns (the "**Founder**"), but also the future owners of any portion of the property, their respective heirs, successors, successors-in-title, and assigns, and any other person or entity that now or hereafter has any legal, equitable, or beneficial interest in any portion of such property. This Charter shall also be binding upon the Association, its successors and assigns.

**THIS COMMUNITY CHARTER DISCLOSES SOME IMPORTANT INFORMATION ABOUT THE COMMUNITY FOR THE BENEFIT OF PROSPECTIVE PURCHASERS OF REAL PROPERTY IN THE COMMUNITY. EACH OWNER, BY ACCEPTING A DEED TO PROPERTY IN THE COMMUNITY, ALSO ACCEPTS AND AGREES TO THE MATTERS SET FORTH IN THIS COMMUNITY CHARTER.**

## **PART ONE: INTRODUCTION TO THE COMMUNITY**

*To accomplish great things, we must not only act, but also dream; not only plan, but also believe.*

*Anatole France*



# Chapter 1

## Governing Documents

*A community is guided and governed by certain principles that each owner and resident, by choosing to own property or reside in the community, agrees to uphold. Those principles are set forth in the community's governing documents, which serve as a tie that binds the community together, give it structure, and provide guidance to all who participate in its growth and evolution.*

### 1.1. Scope and Applicability

The Community has been established and is administered pursuant to various documents that

have a legal and binding effect on all owners and occupants of property in the Community, as well as on anyone else that may now or in the future have an interest in any portion of the property comprising the Community. Such documents, referred to in this Charter as the "**Governing Documents**," include this Charter and the other documents described in Table 1.1, as they may be amended. All owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents.

<b>GOVERNING DOCUMENTS</b>	
<b>Community Charter:</b> (recorded)	this Community Charter for Currahee Club, which creates obligations that are binding upon the Association and all present and future owners of property in Currahee Club
<b>Supplement:</b> (recorded)	a recorded Supplement to this Charter, which may submit additional property to this Charter, create easements over the property described in the Supplement, impose additional obligations or restrictions on such property, designate Service Areas or Limited Common Areas, or any of the foregoing
<b>Articles of Incorporation:</b> (filed with the Georgia Secretary of State)	the Articles of Incorporation of Currahee Club Property Owners Association, Inc., as they may be amended, which establish the Association as a nonprofit corporation under Georgia law
<b>By-Laws:</b> (attached as Exhibit "E")	the By-Laws of Currahee Club Property Owners Association, Inc. adopted by its Board of Directors, as they may be amended, which govern the Association's internal affairs, such as voting, elections, meetings, etc.
<b>Design Guidelines:</b> (Founder adopts)	the design standards and architectural and aesthetics guidelines adopted pursuant to Chapter 5, as they may be amended, which govern new construction and modifications to Units, including structures, landscaping, and other items on Units
<b>Rules:</b> (initial set attached as Exhibit "C")	the rules of the Association adopted pursuant to Chapter 7, which regulate use of property, activities, and conduct within Currahee Club
<b>Board Resolutions:</b> (Board adopts)	the resolutions which the Board adopts to establish rules, policies, and procedures for internal governance and Association activities and to regulate the operation and use of the property which the Association owns or controls
<b>Recreational Covenant:</b>	the recorded or to be recorded Declaration of Recreational Covenant for Currahee Club which sets forth specific rights and obligations of the Owners with respect to The Currahee Club

Table 1.1 – Governing Documents

## Governing Documents

### 1.2. Conflicts

If there are conflicts between any of the Governing Documents and Georgia law, Georgia law shall control. If there are conflicts between or among any of the Governing Documents, then the Charter, the Articles, and the By-Laws (in that order) shall control. If there is a conflict between the Governing Documents and any additional covenants recorded on any property within the Community (or the rules or policies adopted pursuant to any such additional covenants), the Governing Documents will control.

Diagrams, tables, and explanatory text (text set apart in boxes with "key" icons) are used in the Governing Documents to illustrate concepts and assist the reader. If there is a conflict between any diagram or table and the text of the Governing Documents, the text shall control. The explanatory text set apart in the boxes are mere summaries of legal principles or explanations and have no legal force or effect.

Space has been set aside throughout this Charter to allow the reader to make notes. Those spaces and the heading that denotes the spaces are not part of this Charter and have no legal or binding effect.

If any court determines that any provision of this Charter is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

### 1.3. Definitions

Capitalized terms used in the Governing Documents have the meaning described in the paragraph where they first appear in bold print. An index to defined terms may be found at the end of this Charter. All other terms used in the Governing Documents have their natural, commonly accepted definitions.

### 1.4. Interpretation of Certain References

**Consent or Approval.** All references in the Governing Documents to "**consent**" or "**approval**" shall refer to permission or approval, which unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

**Discretion and Determination.** All references in the Governing Documents to "**discretion**" or to the right to "determine" any matter shall refer to the sole and absolute power or right to decide or act. Unless otherwise expressly limited in the Governing Documents or by law, any one authorized in the Governing Documents to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action or inaction.

**Person.** References in the Governing Documents to a "**Person**" or "**Persons**" shall refer to an individual, a corporation, a partnership, a limited liability company, or any other legal entity.

**Recording.** All references in the Governing Documents to a "**recorded**" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed or the filing of a legal instrument in the official records of Stephens County, or such other place designated as the official location for filing documents affecting title to real estate in Stephens County in order to make them a matter of public record.


**Community-Wide Standard.** Where the Governing Documents require compliance with the "**Community-Wide Standard**," the standard to be applied is the highest of: (a) the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing in the Community, or (b) the minimum standards described in this Charter, the Design Guidelines, the Rules, and Board resolutions. The Commu-

## Governing Documents

Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the Board's or the Reviewer's (as defined in Section 5.2) discretion. The Community-Wide Standard may or may not be set out in writing. The Founder initially shall establish such standard; however, the Community-Wide Standard may evolve as development progresses and as Currahee Club changes.

**Maintenance.** All references in this Charter to "**maintenance**" shall refer to maintenance, repair, rehabilitation, and renewal.

### 1.5. Term and Termination



There is an old concept of law known as the "Rule Against Perpetuities" that restricts how long covenants can affect the title to land. Many jurisdictions no longer observe such rule; however, Georgia does, therefore, the term of the covenants cannot exceed 21 years after the death of a named person who is living at the time the covenants are recorded.

This Charter shall be effective for a period of 20 years from the date it is recorded. This Charter shall be extended automatically for successive 20-year periods unless at least 90% of the then Owners and the Founder during the "Development and Sale Period," as such term is defined in Section 2.1, sign a document stating that the Community Charter is terminated and that document is recorded within the year before any extension. In such case, this Charter shall terminate on the date specified in the termination document.

If any provision of this Charter would be unlawful, void, or voidable by reason of any rule restricting the period of time that covenants can affect title to property, that provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

This Section shall not permit termination of any easement created in this Charter without the consent of the holder of such easement.

*That is the best government which desires to make the people happy, and knows how to make them happy. Thomas McCauley*

### NOTES AND THOUGHTS

## Chapter 2

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# Community Administration

*Vibrant communities depend upon all of their stakeholders working together to uphold community standards and achieve the vision and goals for the community. The Founder, the Association, the owners, the builders, and others have a role in the functioning of the community and in helping to fulfill that vision. This Chapter identifies these stakeholders and describes their roles in administering the Community.*

### 2.1. The Founder

The Founder has established the vision for the Community and, through the Governing Documents, has set forth the founding principles that will guide the Community during the initial period of development and sale and thereafter. The Founder's proposed plan for development of the Community is described in the land use plan(s) for Currahee Club approved by the Stephens County, Georgia Board of Commissioners, as it may be supplemented and amended, which encompasses all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B" (the "**Master Plan**"). However, the Founder is not obligated to submit property shown on the Master Plan to this Charter. In addition, the Founder may submit property to this Charter that is not shown on the Master Plan.

The Founder has reserved various rights in the Governing Documents with respect to development and administration of the Community. The Founder may exercise certain of these rights throughout the "**Development and Sale Period**," which is the period of time during which the Founder owns real property in the Community or has an unexpired option to expand the Community pursuant to Chapter 17.

Other rights may be exercised only during the "**Founder Control Period**," which is the pe-

riod of time that the Founder is entitled to appoint a majority of the members of the Association's board of directors ("**Board**"). It begins on the date of the Association's incorporation and terminates upon the first of the following to occur:

(a) December 31, 2042; or

(b) when, in its discretion, the Founder so determines and declares in a recorded instrument.

The Founder has certain approval rights for a limited period after the termination of the Founder Control Period.

The Founder may assign its status and rights as the Founder under the Governing Documents to any person who takes title to any portion of the property described in Exhibit "A" or "B" for the purpose of development and/or sale. Such assignment shall be made only in a recorded instrument signed by both parties.

### 2.2. The Association

The Founder has established the Association as the primary entity responsible for administering Currahee Club in accordance with the Governing Documents. On most matters, the Association acts through the Board. However, in some instances the Governing Documents or applicable law limit the Board's ability to act without the approval of the Association's members. Unless the Governing Documents or Georgia law specifically provide otherwise, the Board may exercise the Association's rights and powers without a vote of the membership.



## Community Administration

### 2.3. The Board

The Association may exercise all rights and powers which the Governing Documents and Georgia expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents. It may also take any action reasonably necessary to effectuate any such right or privilege.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation or any other proceeding on behalf of or in the name of the Association or its members.

In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances) and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards set forth in the By-Laws.

### 2.4. The Owners

Each Person that holds record title to a Unit, as defined in Section 3.1, is referred to in the Governing Documents as an "**Owner**." However, a Person who holds title merely as security for the performance of an obligation (such as a lender holding a mortgage or similar security instrument) is not considered an "Owner." If a Unit is sold under a recorded contract of sale, and the contract specifically so states, the purchaser (rather than the holder of fee simple title) will be considered the Owner. If a Unit has more than one Owner, all Co-Owners are jointly and severally obligated to perform the responsi-

bilities of the Owner under the Governing Documents.

Every Owner has a responsibility to comply with the Governing Documents and uphold the community standards described in Part Two of this Charter. Each Owner also has an opportunity to participate in the administration of the Community through membership in the Association and through service to the Community in various committee and leadership roles, as described in Chapters 3 and 4 and in the By-Laws.

### 2.5. Neighborhood Associations

Portions of the Community may be developed under a condominium form of ownership or may have special requirements that lead to the establishment of a separate homeowners association to administer additional covenants applicable to that particular area ("**Neighborhood Association**"). However, nothing in this Charter requires the creation of a Neighborhood Association, and the jurisdiction of any Neighborhood Association shall be subordinate to that of the Association.

Neighborhood Associations, if any, are responsible for administering the additional covenants applicable to the property within their jurisdiction and for maintaining, in accordance with the Community-Wide Standard, any property which they own or which their respective covenants designate as being for the common benefit of their members.

### 2.6. Mortgagees

If a Unit is made subject to a mortgage or other form of security instrument affecting title to a Unit ("**Mortgage**"), then the holder or beneficiary of that Mortgage ("**Mortgagee**") also has an interest in the administration of the Community. The Governing Documents contain various provisions for the protection of Mortgagees, including those set forth in Chapter 16.

## Community Administration

### 2.7. RPH-Toccoa

Real Property Holding – Toccoa, GA, LLC, a Delaware limited liability company, or its successors and assigns ("**RPH-Toccoa**"), is granted specific rights throughout the Charter which are solely for the benefit of RPH-Toccoa. RPH-Toccoa may exercise such rights in its sole and absolute discretion without necessitating the input of any Owners and without regards to their affect on any Owner, Owner's Unit, or the Association. RPH-Toccoa may transfer or assign any rights set forth in this Charter in its sole and absolute discretion.

### NOTES AND THOUGHTS





## Chapter 3

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# Community Structure and Organization

*The Community consists of parcels of property, referred to as Units, which are intended for the exclusive use of the Owner and other occupants of such parcel, as well as property that is intended for common use. Units are grouped into Neighborhoods to facilitate voting on Association matters. Units may be assigned to Service Areas to permit the Association to provide special services and benefits to, and at the expense of, particular areas of the Community.*

### 3.1. Designations of Properties Comprising the Community

**Units.** The Governing Documents refer to the homes and home sites in Currahee Club as "**Units.**" A Unit is a portion of Currahee Club, depicted as a separately identified unit, lot or parcel on a recorded subdivision plat, survey, or condominium instrument, which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as a residence for a single family. The term "Unit" refers to the land, if any, which is part of the Unit, as well as to any structures or other improvements on the Unit. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit. A parcel of land is considered a single Unit until such time as a subdivision plat, survey, or condominium instrument is recorded subdividing it into more than one Unit. The term does not include Common Areas, common property of any Neighborhood Association, or property dedicated to the public.

**Common Area.** Any property and facilities that the Association owns or in which it otherwise holds possessory or use rights for the common use or benefit of more than one Unit is referred to as "**Common Area.**" The Common Area also includes any property that the Association

holds under a lease and any easements in favor of the Association.

**Limited Common Area.** Certain portions of the Common Area may be designated as "**Limited Common Area**" and assigned for the exclusive use or primary benefit of one or more Units in specified portions of the Community. Limited Common Areas might include such things as entry features, common driveways, and landscaped medians and cul-de-sacs, among other things.

The Founder may designate property as Limited Common Area and assign it to particular Units on the recorded plat depicting such property, in the deed conveying such property to the Association, or in the Supplement by which the property is submitted to the terms of this Charter. At any time during the Development and Sale Period, the Founder may assign use of the same Limited Common Area to additional Units.

**Area of Common Responsibility.** All of the properties and facilities for which the Association has responsibility under the Governing Documents, or for which the Association otherwise agrees to assume responsibility, are collectively referred to in the Governing Documents as the "**Area of Common Responsibility,**" regardless of who owns them. The Area of Common Responsibility includes all of the Common Area and may also include Units or portions of Units and property dedicated to the public, such as public rights-of-way. The initial Area of Common Responsibility is described in Chapter 9.

### 3.2. Neighborhoods

Units will be grouped into "**Neighborhoods**" to facilitate a system of representative voting on matters as to which the Governing Documents require approval of the Association's

## Community Structure and Organization

membership. A Neighborhood may be comprised of any number of Units and may include Units of more than one housing type, as well as Units that are not contiguous to one another. Each Neighborhood will elect one "Voting Delegate" to cast the votes allocated to Units in that Neighborhood on matters requiring a vote of the Owners, as described in Chapter 4.

The Founder will assign Units to a specific Neighborhood (by name or other identifying designation) either in Exhibit "A" or in a Supplement. Until such time as Neighborhoods are established by Founder, all Units will be part of the same Neighborhood. During the Development and Sale Period, the Founder may unilaterally record a Supplement, or an amendment to this Charter or any previously recorded Supplement, to designate or change Neighborhood boundaries. Thereafter, the Board may amend this Charter or any Supplement to re-designate Neighborhood boundaries; however, the Board may not combine two or more existing Neighborhoods without the consent of Owners of a majority of the Units in the affected Neighborhoods.

### 3.3. Service Areas

Units may also be part of one or more "**Service Areas**" in which the Units share Limited Common Areas or receive special benefits or services from the Association that it does not provide to all Units within the Community. A Unit may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Units of more than one housing type and may include Units that are not contiguous.

The Founder may initially designate Service Areas (by name or other identifying designation) and assign Units to a particular Service Area either in Exhibit "A" or in a Supplement. During the Development and Sale Period, the Founder may unilaterally amend this Charter or any Supplement to change Service Area boundaries.

In addition, the Board may, by resolution, designate Service Areas and assign Units to them upon petition of Owners of at least 67% of the Units affected by the proposed designation pursuant to Section 10.2.

The Owners of Units within each Service Area may elect a "**Service Area Committee**" in accordance with the By-Laws to represent and act on behalf of the Owners with respect to the services and benefits that the Association provides to the Service Area. References to Service Areas in the Governing Documents shall also refer to such Service Area Committees, if appropriate from the context.

*Chaos is the law of nature; order is the dream of men. Henry Adams*

## NOTES AND THOUGHTS

## Chapter 4

# Association Membership and Voting Rights

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*The Association is an entity through which each Owner can participate in the governance and administration of Currahee Club. While many powers and responsibilities are vested in the Board to facilitate day-to-day management and operation, the membership and voting rights vested in the Owners allow the Owners to participate in administration of the Community and influence the outcome of major decisions.*

### 4.1. Membership

The Association initially has two classes of membership: the Owner membership, which is comprised of all Owners, and the Founder membership, which consists solely of the Founder.

**(a) Owner Membership.** Every Owner is automatically a member of the Association. However, there shall be only one membership per Unit. Thus, if a Unit has more than one Owner, all co-Owners of the Unit shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the By-Laws. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a writing to the Association's Secretary, except that only the individuals residing in the Unit shall be entitled to use any Common Area recreational facilities available for use by members.

**(b) Founder Membership.** The Founder holds the sole Founder membership. The Founder membership shall terminate twenty years after expiration of the Founder Control Period, or on such earlier date as the Founder determines and declares in a recorded instrument.

### 4.2. Voting

Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Charter and the other Governing Documents. No vote shall be exercised for any property exempt from assessment under Section 12.8. Further, during such time as there is a Founder membership, no vote shall be exercised for Units that the Founder owns; rather, the Founder's consent shall be required for various actions of the Board, the membership, and committees, as specifically provided elsewhere in the Governing Documents.

Due to the number of Units that may be developed in Currahee Club, the Governing Documents provide for a representative system of voting. The Owners of Units in each Neighborhood elect a "**Voting Delegate**" and an alternative Voting Delegate, in the manner provided in the By-Laws, to cast the votes of all Units in the Neighborhood on matters requiring a vote of the membership, except where the governing documents specifically require a vote of the Owners. However, until such time as the Board first calls for election of a Voting Delegate for a particular Neighborhood, each Owner of a Unit in such Neighborhood shall be considered a "Voting Delegate" and may personally cast the vote allocated to such Owner's Unit on any issue requiring a vote of the Voting Delegates under the Governing Documents.

The Voting Delegate or, in his or her absence, the alternative Voting Delegate, attends Association meetings and casts all votes allocated to Units in the Neighborhood that he or she represents on any matters as to which such Voting Delegate is entitled to vote under the Governing Documents. A Voting Delegate shall vote all

## Association Membership and Voting Rights

votes it is entitled to cast in accordance with the results of a poll of the Owners of Units in the Neighborhood which he or she represents prior to voting. The Voting Delegate shall cast the votes in accordance with the result of the poll. Any votes not accounted for in the poll shall be cast in the same proportion as dictated by the poll (*e.g.*, if 60% of the responses received are in favor of a provision, 60 % of the votes not received shall be cast in favor of the provision). The Voting Delegate shall not be entitled to fractionalize any single vote.

Voting Delegates are subordinate to the Board, and their responsibility and authority does not extend to policymaking, supervising, or otherwise being involved in Association governance beyond voting on matters put to a vote of the membership.

In any situation in which an Owner is entitled personally to exercise the vote for his or her Unit, if there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves. Any co-Owner may cast the vote for the Unit and majority agreement shall be conclusively presumed unless another co-Owner of the Unit protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken outside of a meeting. In the absence of majority agreement, the Unit's vote shall be suspended if two or more co-Owners seek to exercise it independently.

*If you don't like something, change it. If you can't change it, change your attitude. Don't complain. Maya Angelou*

### NOTES AND THOUGHTS

## **PART TWO: COMMUNITY STANDARDS**

*A people that values its privileges above its principles soon loses both.*

*Dwight D. Eisenhower*



## Chapter 5

# Architecture, Landscaping and Aesthetic Standards

*The Community derives its unique character from a mix of compatible architectural styles and from the co-operation of all builders and Owners in upholding minimum design, landscaping and aesthetic standards. This Chapter explains how those standards are established and how they are applied and maintained through a process requiring prior approval for construction on and exterior modifications to improvements on Units.*

### 5.1. General

All site work, landscaping, structures, improvements, and other items placed on a Unit in a manner or location visible from outside of any existing structures on the Unit ("**Improvements**") are subject to standards for design, landscaping and aesthetics adopted pursuant to this Chapter ("**Design Guidelines**") and the approval procedures set forth in this Chapter, except as this Chapter or the Design Guidelines may otherwise specify.

To preserve the natural environment and to protect the natural landscape and resources within Currahee Club, all Improvements to a Unit shall be confined to the allowable building area of the Unit ("**Building Envelope**"). The Building Envelope for each Unit shall be determined by the Founder in its sole and absolute discretion.

No Improvements shall be made to a Unit, and the Reviewer, as defined below, shall not review an application under Section 5.3(b) until Founder determines the Building Envelope. Only the Founder, in its sole and absolute discretion, may modify the Building Envelope. Except with the prior written approval of the Reviewer, all areas of a Unit outside the Building Envelope shall remain undisturbed and shall remain in their natural state unless selective clearing or other

changes to the natural landscape are mandated by any governmental agency.

Notwithstanding any other provision set forth in the Governing Documents or in the approval of any governmental agency, no dock or dock like structure (collectively referred to hereafter as a "dock") shall be constructed, erected, or placed, permanently or temporarily, on the outside portion of a Unit, over the Common Area, over the Area of Common Responsibility or over any real property (including any body of water) adjacent to Currahee Club, without the prior written consent and approval of Founder or its designee. Such approval may be granted or withheld by Founder, or its designee, in its sole and absolute discretion. Founder, in its sole and absolute discretion, shall determine whether anything so constructed, erected, or placed is a dock.

Founder shall grant or withhold such consent and approval only after reviewing all plans and specifications (including, colors, lighting, furnishings, and any other information it may require) submitted by or on behalf of the Owner of the Unit.

Without the prior written consent of Founder, nothing shall be constructed, erected, or placed, temporarily or permanently, on any dock (including barbecue grills, cooking areas, furniture and umbrellas) and a dock may not be modified in any manner.

Founder may prohibit specific types of activities on or from any dock, including, but not limited to, parties or other gatherings which radiate an unacceptable level of light or noise. Founder may also impose standards regulating the condition, appearance, maintenance, and operation of watercraft moored or operated from any dock, including, but not limited to, prohibiting water-



## Architecture, Landscaping and Aesthetic Standards

craft which emit excessive noise and personal watercraft.

All docks shall be properly maintained and not permitted to fall into a state of disrepair. Founder, in its sole and absolute discretion, shall determine the appropriate maintenance level and repair of any and all dock or dock like structures.

No prior approval from the Reviewer is necessary to repaint the exterior of structures on any Unit using the most recently approved color scheme or to rebuild or restore any damaged structures on a Unit in a manner consistent with the plans and specifications most recently approved for such structures so long as undertaken in accordance with the procedures set forth in this Chapter. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of screened porches, patios, and any other portions of a Unit visible from outside a structure do require prior approval.

Any dwelling constructed on a Unit shall be designed by and built in accordance with the plans and specifications of a licensed architect.

Approval under this Chapter is not a substitute for any approvals or reviews required by Stephens County or any municipality or governmental agency or entity having jurisdiction over architectural or construction matters. However, Owner shall obtain all approvals required pursuant to this chapter and the Design Guidelines prior to seeking any approvals or permits required by Stephens County or any municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

This Chapter shall not apply to the Founder's design and construction activities or to the Association's activities during the Founder Control Period.

### 5.2. Design Review Authority



Until the Founder gives up such right, it will review applications for proposed Improvements and determine whether they should be approved. Once the Founder gives up such review right, the Board of Directors will appoint an Architectural Review Board to review applications for proposed improvements. The Founder or the Architectural Review Board is referred to as the "Reviewer." The Reviewer sets fees for reviewing applications.

**(a) Founder.** The Founder shall have exclusive authority to review and act upon all applications for review of proposed Improvements until the later of the termination of the Founder Control Period or the Development and Sale Period. The Founder may designate one or more persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, the Founder and its designee act solely in the Founder's interest and owe no duty to any other Person.

From time to time, the Founder may delegate any or all of its rights under this Chapter to other Persons or committees, including the committee appointed pursuant to Section 5.2(b). Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to (i) the Founder's right to revoke such delegation at any time and reassume its prior control, and (ii) the Founder's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable. So long as the Founder has any rights under this Chapter, the jurisdiction of others shall be limited to such matters as the Founder specifically delegates.

**(b) Architectural Review Board.** Upon the Founder's delegation of authority pursuant to Section 5.2(a), or upon termination of the Founder's rights under this Chapter, the Board shall appoint an Architectural Review Board ("**Architectural Review Board**" or "**ARB**") to

## Architecture, Landscaping and Aesthetic Standards

assume jurisdiction over matters within the scope of the delegated authority or this Chapter, respectively. The ARB shall consist of at least three, but not more than seven, persons, who shall serve and may be removed and replaced in the Board's discretion. ARB members need not be Owners or representatives of Owners. At least one member of the ARB shall be an architect licensed in the State of Georgia and one member shall be a landscape architect licensed in the State of Georgia. The Association may, but shall not be compelled to, compensate ARB members in such manner and amount, if any, as the Board may determine appropriate.

Until expiration of the Founder's rights under this Chapter, the ARB shall notify the Founder in writing within three business days of any action (*i.e.*, approval, partial approval, or disapproval) it takes under this Chapter. A copy of the application and any additional information the Founder may require shall accompany the notice. The Founder shall have 10 business days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARB.

Unless and until such time as the Founder delegates all or a portion of its reserved rights to the ARB or the Founder's rights under this Chapter terminate, the Association shall have no jurisdiction over architectural matters.

**(c) Reviewer.** For purposes of this Chapter, the entity having jurisdiction in a particular case shall be referred to as the "**Reviewer.**"

**(d) Fees; Assistance.** The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may also include reasonable costs incurred in having professionals review any application. The Board may include the compensation of such persons in the Association's annual operating budget.

The Reviewer may also require the posting of a construction deposit to ensure that any wear

and tear on the infrastructure of the Community is repaired once construction is complete.

### 5.3. Guidelines and Procedures



The purpose of the Design Guidelines is to maintain a consistent character and quality of appearance for the Improvements within the community and to ensure that Improvements are constructed in an orderly manner. The Design Guidelines may describe what types of building materials and design elements are preferred and others that are discouraged. The Design Guidelines also provide a specific procedure for submitting applications for proposed Improvements and describe how to carry out the construction of the Improvements once approval has been received.

**(a) Design Guidelines.** The Founder has prepared the initial Design Guidelines, which may contain general provisions applicable to all of Currahee Club as well as specific provisions that vary among uses or locations within the Community. The Design Guidelines are intended to provide guidance to Owners and contractors regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee approval.

The Founder shall have sole and full authority to amend the Design Guidelines for so long as it has review authority under Section 5.2(a). The Founder's right to amend the Design Guidelines shall continue even if it delegates reviewing authority to the ARB, unless the Founder also delegates the power to amend to the ARB. Upon termination or delegation of the Founder's right to amend, the ARB may amend the Design Guidelines with the Board's consent.

Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construc-



## Architecture, Landscaping and Aesthetic Standards

tion or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and their contractors upon request. In the Founder's discretion, such Design Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

**(b) Procedures.** Unless the Design Guidelines provide otherwise, no activities described in Section 5.1 may begin on any portion of Currahee Club until a written application is submitted to and approved by the Reviewer. The application must be accompanied by plans and specifications and such other information as the Reviewer or the Design Guidelines require.

In reviewing each application, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to review.

The Reviewer shall make a determination on each application after receipt of a completed application with all required information. The Reviewer may permit or require that an application

be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission. The Reviewer may (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

The Reviewer shall notify the applicant in writing of the final determination on any application no later than 30 business days after its receipt of a completed application and all required submissions; however, with respect to any ARB determination subject to the Founder's veto right under Section 5.2(b), the Reviewer shall notify the applicant of the final determination within 40 business days after its receipt of the final determination and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, facsimile, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

If the Reviewer fails to respond within the applicable time period, as stated above, approval shall be deemed given. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 5.5.

Construction shall commence within 120 days of the date the final approval is granted by the Reviewer. If construction does not commence within such 120-day period, the approval shall expire, and the Owner must reapply for approval and shall be obligated to pay the review fee being charged at such time before commencing any activities unless the Reviewer, in its discretion, grants an extension in writing. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within 18 months of commencement unless otherwise specified in the notice of approval or

## Architecture, Landscaping and Aesthetic Standards

unless the Reviewer, in its discretion, grants an extension in writing.

The Reviewer may exempt certain activities from the application and approval requirements of this Chapter, if such activities are undertaken in compliance with the Design Guidelines and the Community-Wide Standard.

**(c) Appeals Process.** After the Board's appointment of the ARB, an applicant may appeal any disapproval of its application by the ARB to the Board. To request an appeal, the applicant must submit to the Association's Secretary, no later than 15 days after the delivery of the notification of disapproval, a copy of the original application, the notification of disapproval, and a letter requesting review of the decision. The appeal request shall also contain a response to any specific concerns or reasons for disapproval listed in the notification of disapproval. The Board may (i) affirm the ARB's decision, (ii) affirm a portion and overturn a portion of the ARB's decision, or (iii) overturn the ARB's entire decision. The Board shall notify the applicant and the ARB in writing of its decision no later than 30 days after its receipt of the request for appeal with all required information. The Board's decision shall include a description of its reasons for overturning the ARB's decision. During the appeal process the Owner shall not commence any work requiring approval hereunder.

### 5.4. No Waiver of Future Approvals

The people reviewing applications under this Chapter will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, the Reviewer may elect not to require changes to objectionable features. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to

any similar applications, plans, or other matters subsequently or additionally submitted for approval.

### 5.5. Variances



In some circumstances, an Owner may find it difficult or impossible to comply with the requirements of the Design Guidelines. In that case, the Owner can file a request with the Reviewer to be excused from complying with the Design Guidelines. The Reviewer has the discretion to grant or deny the request.

The Reviewer may authorize variances from compliance with any of the Design Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. No variance shall (a) be effective unless in writing; (b) be contrary to this Charter; (c) permit any Improvement to be constructed outside of the Building Envelope except with the prior approval of Founder; or (c) prevent the Reviewer from denying a variance in other circumstances. A variance requires the Founder's written consent during the Development and Sale Period and, thereafter, requires the Board's written consent.

### 5.6. Limitation of Liability

This Chapter establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of Currahee Club; they **do not** create any duty to any Person. Review and approval of any application pursuant to this Chapter may be based purely on aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that all dwellings are of comparable quality, value, size, or design, or are aesthetically pleasing or otherwise acceptable to other Owners.

## Architecture, Landscaping and Aesthetic Standards

The Founder, any of its officers, directors, or partners or any officer or director of any partner, the Association, its officers, the Board, any committee, and a member of any of the foregoing shall not be liable for (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not the Founder has approved or featured such contractor to construct Improvements with Currahee Club; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Association shall defend and indemnify the Founder, any of its officers, directors, or partners or any officer or director of any partner, the Board, the ARB, and the members of each as provided in the By-Laws.

### 5.7. Certificate of Compliance

Any Owner may request in writing that the Reviewer issue a certificate of compliance certifying that there are no known violations of this Chapter or the Design Guidelines. The Association shall either grant or deny such written request within 30 days after receipt and may charge a reasonable administrative fee. Issuance of such a certificate shall prevent the Association from taking enforcement action against an Owner for any condition known to the Association on the date of such certificate.

*We shape our buildings and our  
buildings shape us. Winston Churchill*

### NOTES AND THOUGHTS

## Chapter 6

# Maintenance, Repair and Replacement

*One of the benefits of owning property in a planned community is the commitment among neighbors to maintain their property in a neat, attractive and well-landscaped condition to enhance the overall beauty and aesthetic appeal of the community. This Chapter describes the Owners' responsibilities for maintenance and repair of their Units and for insuring their Units against property damage so that funds will be available for repair and restoration if needed.*

### 6.1. Maintenance of Units

Each Owner shall maintain his or her Unit, including all structures, landscaping, and other improvements comprising the Unit, in a manner consistent with the Governing Documents and the Community-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood Association pursuant to this Charter, any Supplement, or by law. In the event such entity fails to maintain a Unit, the Owner of the unit shall be responsible for such maintenance.

Each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Unit boundary and any wall, fence, or curb located on the Common Area or public right-of-way within 10 feet of the Unit boundary. However, Owners may not remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Chapter 5.

The Owner of any Unit on which there is located utility facilities or equipment for electricity, cable, telephone, or similar utilities serving the Community, shall install and maintain landscaping around such utility facilities or equipment in accordance with such landscape guidelines as may be established pursuant to Chapter 5. Such

landscaping shall be maintained at a standard which shall permit access to such utility facilities or equipment for maintenance, repair, and replacement.

### 6.2. Maintenance of Neighborhood Association Property

A Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

Any Neighborhood Association shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the boundary of its common property and any wall, fence, or curb located on the Common Area or public right-of-way within 10 feet of its boundary. A Neighborhood Association shall not remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Chapter 5.

The Association may assume maintenance responsibility for property in any Neighborhood Association, either upon designation of the Neighborhood Association as a Service Area pursuant to Section 3.3 or upon the Board's determination, pursuant to Chapter 8, that the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. Such maintenance shall be assessable against all Units in the benefited Neighborhood Association as a Service Area Assessment, as provided in Section 12.2(c). The Association need not treat all similarly situated Neighborhood Associations the same.

## Maintenance, Repair and Replacement

### 6.3. Responsibility for Repair and Replacement

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either a Neighborhood Association (if any) or the Association carries such insurance (which they may but are not obligated to do). If the Association assumes responsibility for insuring a Unit, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

As soon as possible, but under no circumstances more than three months after any damage to or destruction of a structure on a Unit, the Unit's Owner shall promptly repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved pursuant to Chapter 5 unless the Board, in its discretion, agrees to extend such period. Alternatively, the Owner shall clear the Unit of debris and maintain it in a neat and attractive landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs that insurance proceeds do not cover.

Additional recorded covenants applicable to any Neighborhood Association or Service Area may establish additional insurance requirements and more stringent standards for rebuilding or reconstructing structures on Units and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

This Section shall apply to a Neighborhood Association with respect to common property

within the Neighborhood Association in the same manner as if the Neighborhood Association was an Owner and the common property was a Unit.

### 6.4. Maintenance and Repair of Party Walls and Similar Structures

Each wall, fence, driveway, or similar structure built as part of the original construction on the Units that serves and/or separates any two adjoining Units shall be considered a party structure. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who use the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. (As an example, and not a limitation, this provision would apply in the event a party fence is destroyed and is subsequently rebuilt by one Owner. Such Owner would not have the right to seek contribution from the adjacent Owner unless such adjacent Owner subsequently used such rebuilt party fence). However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right to and the obligation of contribution for party walls and similar structures between Owners, as provided in this Section, shall be appurtenant to the land and shall pass to such Owner's successor-in-title.

To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to any party structure. Any dis-

## Maintenance, Repair and Replacement

pute concerning a party structure shall be subject to the provisions of Chapter 19.

*Any activity becomes creative when the doer cares about doing it right, or doing it better.*  
*John Updike*





## Chapter 7

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### Use and Conduct

*To maintain a residential environment that encourages respect for and courtesy among neighbors and minimizes the potential for disputes, this Chapter sets forth basic standards regarding use, occupancy and transfer of interests in Units. In addition, it provides a procedure by which the Board and the membership can adopt and change rules regulating use, conduct and activities within the Community to address particular needs and desires of the Community over time.*

#### 7.1. Use, Occupancy, and Transfer of Interests in Units

**(a) Residential and Related Uses.** Units may be used only for residential and related purposes, except as Founder may otherwise authorize with respect to construction, marketing, and sale activities of the Founder and Builders it designates. A business activity shall be considered "related" to a residential use and thus permitted under this Section only if conducted by a person or persons residing in the Unit and only if the business activity:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning requirements;

(iii) does not involve regular visitation of the Unit by employees who do not reside in the Unit, clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Community; and

(iv) is consistent with the Community's residential character and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

Leasing a Unit for residential purposes shall not be considered a "business" within the meaning of this subsection, provided that the Owner and any other Owners to whom such Owner is related or with whom such Owner is affiliated do not collectively lease or offer for lease more than one Unit at any time. This provision shall not preclude an institutional lender from leasing a Unit upon taking title following foreclosure of its security interest in the Unit or upon acceptance of a deed in lieu of foreclosure. Furthermore, this provision shall not preclude the leasing of a Unit owned by or under the control of Founder and the leasing of any Unit owned by Founder's designees and assigns. Any such leasing activity by Founder and Founder's designees and assigns shall not be considered a "business" within the meaning of this subsection.

**(b) Leasing.** For purposes of this Charter, the terms "**Lease**" and "**Leasing**" shall refer to the regular, exclusive occupancy of a Unit by any Person other than the Owner, for which the Owner receives any consideration or benefit. Any dwelling that is leased shall be leased only in its entirety; separate rooms, floors, or other areas within a dwelling may not be separately leased. In addition, any detached "in-law suite" or "guest house" situated on a Unit may not be leased separately from the main dwelling. Notwithstanding

## Use and Conduct

the preceding, any detached "in-law suite" or "guest house" situated on a Unit owned by or under the control of Founder or a Unit owned by Founder's designees and assigns may be leased separately from the main dwelling.

**All leases shall be in writing and shall disclose that the tenants and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents. However, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease.**

Within 10 days of a lease being signed, the Owner of the leased Unit, other than a Unit owned by or under the control of Founder and any Unit owned by Founder's designees and assigns, shall notify the Board or the Association's managing agent of the lease and provide any additional information the Board may reasonably require. The Owner must give the tenant copies of the Governing Documents. In addition to, but consistent with this Subsection, the Association or the Board may adopt Rules governing leasing and subleasing.

The operation of a timesharing, fraction-sharing, or similar program within a Unit authorized pursuant to Section 7.1(e) shall not be deemed the lease or leasing of a Unit and any leasing limitations shall not be applicable to such Unit.

**(c) Transfer of Title.** Any Owner selling or otherwise transferring title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board

receives such notice, notwithstanding the transfer of title.

**(d) Subdivision and Combination of Units.** No Person other than the Founder or with the Founder's consent during the Founder Control Period shall subdivide or change the boundary lines of any Unit or combine Units without the Board's prior written approval. Any such action that the Board approves shall be effective only upon recording of a plat or other legal instrument reflecting the subdivision or new boundaries of the affected Unit(s). With the prior written consent of the Founder during the Founder Control Period, and the Board thereafter, the Owner of two or more contiguous Units may consolidate the Units for the sole purpose of constructing a single family dwelling thereon, subject to any and all requirements of any governmental entity. In the event of such consolidation, and notwithstanding anything to the contrary in this Charter or elsewhere, such consolidated Units shall continue to be treated as separate Units for the purpose of voting and assessment, even though subsequently such Units may be replatted to create one Unit for all other legal purposes.

**(e) Timesharing.** No Unit shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, unless such program is established by the Founder or with the Founder's prior written approval.

### 7.2. Rulemaking Authority and Procedures



Since it is impossible to foresee all potential situations and problems that may arise within the community, the Association has the authority to adopt and modify rules as needed to address these changing circumstances.



## Use and Conduct

The Governing Documents establish a framework of covenants and conditions that govern the Community. The initial Rules attached as Exhibit "C" are a part of that framework. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Community. Therefore, the Board and the Voting Delegates are authorized to change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 7.3.

**(a) Board Authority.** Subject to the notice requirements in Subsection (c) and the Board's duty to exercise judgment and reasonableness on behalf of the Association and its members, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the directors at any Board meeting.

**(b) Membership Authority.** Subject to the notice requirements in Subsection (c), the Voting Delegates representing at least a majority of the total votes in the Association may also adopt new Rules and modify or rescind existing Rules at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, as long as the Founder membership exists, any such action shall also be subject to the Founder's approval.

**(c) Notice.** The Board shall send notice to all Owners concerning any proposed Rule change at least five business days prior to the meeting of the Board or the Voting Delegates at which such action is to be considered. At any such meeting, Voting Delegates shall have a reasonable opportunity to be heard before the proposed action is put to a vote.

This notice requirement does not apply to administrative and operating policies that the Board may adopt relating to the Common Areas, such as hours of operation of a recreational facility, speed limits on the private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particu-

lar times, notwithstanding that such policies may be published as part of the Rules.

**(d) Effective Date.** A Rules change adopted under this Section shall take effect 30 days after the date on which written notice of the Rules change is given to the Owners.

**(e) Conflicts.** No action taken under this Section shall have the effect of modifying or repealing the Design Guidelines or any provision of this Charter other than the Rules. In the event of a conflict between the Design Guidelines and the Rules, the Design Guidelines shall control. In the event of a conflict between the Rules and any provision of this Charter (exclusive of the Rules), the Charter shall control.

### 7.3. Protection of Owners and Others

Except as may be set forth in this Charter (either initially or by amendment) or in the initial Rules set forth in Exhibit "C," all Rules shall comply with the following provisions:

**(a) Similar Treatment.** Similarly situated Units shall be treated similarly; however, the Rules may vary by Neighborhood Association, Service Area, or any designated conservation area.

**(b) Displays.** No Rule shall abridge an Owner's right to display political, religious or holiday symbols and decorations inside dwellings on their Units of the kinds normally displayed in residences located in single-family residential neighborhoods so long as not visible from outside the Unit. Owners may also display on the exterior of their residences and on their Units seasonal, religious and holiday signs, symbols, and decorations normally displayed in single-family residential neighborhoods, that are consistent with the Community-Wide Standard, are of reasonable size and scope, and do not disturb other Owners and residents by excessive light or sound emission or by causing an unreasonable amount of spectator traffic. Permitted decorations may

## Use and Conduct

be displayed for such periods as are normal and customary for comparable single-family residential neighborhoods, as determined in the Board's sole discretion.

Signs, including "for sale" or "for lease" signs, banners, posters, placards, billboards, advertisements, bulletins, announcements, symbols, displays, or any other manifestation of a message, slogan, or symbol of any kind **shall not** be displayed upon or visible from the outside of a Unit or placed or displayed anywhere within the Community; provided those signs installed during the initial construction of the Community by Founder, those signs required by Georgia law, and those signs permitted pursuant to the Design Guidelines shall be permitted.

**(c) Household Composition.** No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities and its fair share use of the Common Area.

**(d) Activities within Dwellings.** No Rule shall interfere with the activities carried on within a dwelling, except that the Association may, but is not obligated to, prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance.

**(e) Allocation of Burdens and Benefits.** No Rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally ap-

plicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Chapter 12.

**(f) Leasing and Transfer of Units.** No Rule shall prohibit the leasing or transferring of any Unit or require approval prior to leasing or transferring a Unit; however, the Rules may require a minimum lease term which may vary by Neighborhoods, Neighborhood Associations, or Service Areas. Except as set forth below, the leasing of a Unit improved with a single family residence may be leased only once in a 12-month period for a minimum term of at least six months; except in such areas, if any, a shorter lease term is specifically authorized by an applicable Supplement; provided, however, a Unit improved with a single family residence may be leased to the same tenant multiple successive periods within a 12-month period. Notwithstanding the preceding, any Unit owned by or under the control of Founder and any Unit owned by Founder's designees and assigns may be leased for short term stays during the Development and Sale Period. The Rules may also require that Owners, other than Founder and Founder's designees and assigns, use Board-approved lease forms (or include specific lease terms), and may impose a reasonable review or administrative fee in connection with the Board's review of a lease.

## Use and Conduct



The following provision protects the existing personal property of Owners. It is intended to prevent a situation in which a specific thing was allowed, the Board or the Community decided to prohibit it, and then an Owner is forced to dispose of the thing that was previously allowed. For example, if basketball goals are allowed in driveways and then a Rule is passed prohibiting basketball goals, the Board cannot force the Owners who have basketball goals at that time to remove them. However, it can enforce this Rule against any other Owner desiring to install one. In addition, if an Owner sells his or her Unit and takes down their basketball goal, the new Owner cannot install another.

**(g) *Abridging Existing Rights.*** No Rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.

**(h) *Reasonable Rights to Develop.*** No Rule may unreasonably interfere with the Founder's ability to develop, market and sell property in Currahee Club.

**(i) *Interference with Easements.*** No Rule may unreasonably interfere with the exercise of any easement.

**(j) *Interference with Private Amenity.*** No Rule or action by the Association or Board shall interfere with the use or operation of any property owned or administered by a Private Amenity.

### 7.4. Owners' Acknowledgment and Notice to Purchasers.

By accepting a deed, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her

Unit is limited and affected by the Rules, which may change from time to time. All Unit purchasers are hereby notified that the Association may have adopted changes to the Rules and that such changes may not be set forth in a recorded document. A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

### 7.5. Use of Bodies of Water within Currahee Club

There shall be no fishing, swimming, boating, use of personal floatation devices, or other active use of lakes, ponds, streams, or other bodies of water within Currahee Club except in strict compliance with rules the Founder or the Association adopt. Neither the Founder, any of its officers, directors, or partners or any officer or director of any partner, nor the Association shall be responsible for any loss, damage, injury, or death to any Person or property arising out of the authorized or unauthorized use of such bodies of water within Currahee Club.

### 7.6. Lake Hartwell

By accepting a deed to a Unit, each Owner acknowledges that neither Founder nor the Association is responsible for the maintenance or operation of the navigable body of water adjacent to the Community more commonly known as Lake Hartwell. All Persons are hereby advised that no representations or warranties have been or are made by the Founder, the Association, or by any Person acting on behalf of any of the foregoing with regard to the maintenance or operation of Lake Hartwell including, but not limited to, the ability to fish, swim, boat, or otherwise use Lake Hartwell for any purpose, including the construction or use of any dock, or the water level of Lake Hartwell, which may be raised or lowered at any time by the U.S. Corp of Engineers. Neither Founder nor the Association shall be respon-

## Use and Conduct

sible for any loss, damage, injury, or death to any Person or property arising out of the authorized or unauthorized use of Lake Hartwell.

*A few strong instincts and a few plain rules suffice us. Ralph Waldo Emerson*

## NOTES AND THOUGHTS



## Chapter 8

# Compliance and Enforcement

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*The covenants, standards and rules set forth in the Governing Documents are for the benefit of all Owners and occupants of the Community. However, if they are to have any real meaning, there must be a commitment by the stakeholders in the Community to comply with them and there must be a mechanism in place to enforce that compliance in the event that someone fails or refuses to do so. This Chapter sets forth the obligation to comply and the remedies available to the Association for noncompliance.*

### 8.1. Compliance



All Owners and occupants, as well as their tenants, guests, and invitees, are required to abide by the Governing Documents. If any of the above fail or refuse to obey the Governing Documents, the Owner may be subject to various penalties, including fines and the loss of the right to use the Common Areas.

Every Owner and occupant and their tenants, guests, and invitees to a Unit must comply with the Governing Documents and shall be subject to sanctions for violations as described in this Chapter. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants, tenants, guests, or invitees to their Units, and for any damage to the Area of Common Responsibility that such persons may cause.

### 8.2. Remedies for Non-Compliance

The Association, the Founder and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents. In addition, the Board may impose sanctions for violation of the Governing Documents, including those listed below and any others described elsewhere in the Governing Documents.

**(a) Sanctions Requiring Prior Notice and Hearing.** After written notice and an opportunity for a hearing in accordance with the By-Laws, the Board may:

(i) impose reasonable monetary fines (which may include daily fines), which shall constitute a lien upon the violator's Unit. In the event that any occupant, tenant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspend an Owner's right to vote (except that no notice or hearing is required if the Owner is more than 90 days delinquent in paying any Base or Special Assessment);

(iii) suspend any Person's right to use any Common Area facilities (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation (except that no notice or hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed the Association); provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspend services the Association provides (except that no notice or hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed to the Association);

(v) exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including remov-



## Compliance and Enforcement

ing personal property that violates the Governing Documents);

(vi) without liability to any Person, preclude any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Chapter 5, including the Design Guidelines, from accessing Currahee Club and continuing or performing any further activities in Currahee Club;

(vii) levy Specific Assessments to cover costs the Association incurs in bringing a Unit into compliance with the Community-Wide Standard or other requirements under the Governing Documents; and

(viii) record a notice of violation with respect to any Unit on which a violation exists.

**(b) Other Sanctions.** The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing:

(i) exercise self-help or take action to abate a violation on a Unit in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) exercise self-help or take action in the event of an emergency or to abate a violation on the Common Area under any circumstances;

(iii) require an Owner or a Neighborhood Association, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Unit or on the Neighborhood Association's property, respectively, that is in violation of the Community-Wide Standard or other requirements under the Governing Documents and to restore the property to its previous condition;

(iv) enter the property and exercise self-help to remove or cure a violating condition if an Owner or Neighborhood Association fails to take action as required pursuant to Subsection (iii) above within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass;

(v) bringing suit at law for monetary damages or in equity to stop or prevent any violation, or both; or

(vi) notify the Club, as such term is defined in Chapter 14, if the Owner is more than 60 days delinquent in paying any assessment or other charge owed the Association and the Club, in its discretion, may deny such Owner access to any of the facilities of the Club.

**(c) Additional Powers Relating to Neighborhood Associations.** In addition to the foregoing sanctions, the Association shall have the power to veto any action that a Neighborhood Association proposes to take if the Board reasonably determines the proposed action to be adverse to the interests of the Association or its members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

## Compliance and Enforcement

### 8.3. Board Decision to Pursue Enforcement Action

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

- (a) the Association's position is not strong enough to justify taking any or further action;
- (b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;
- (c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

### 8.4. Attorneys Fees and Costs

In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, administration fees and costs and attorneys fees and court costs, reasonably incurred in such action.

### 8.5. Enforcement of Ordinances

The Association, by contract or other agreement, may enforce applicable county ordinances.

In addition, Stephens County, Georgia, may enforce ordinances within Currahee Club.

### 8.6. Enforcement Rights of RPH-Toccoa

So long as RPH-Toccoa owns any property identified on the Master Plan or owns any Private Amenity containing a golf course adjacent or near any boundary of Currahee Club, RPH-Toccoa may enforce the provisions of the Governing Documents at law or in equity. RPH-Toccoa may exercise self-help to cure any violation of the Governing Documents, including, but not limited to, violations relating to docks in accordance with Section 5.1.

RPH-Toccoa may also levy fines for failure to comply with the Governing Documents. RPH-Toccoa shall have a lien against each Unit and the Common Area to secure payment of such fine, as well as interest (computed from its due date at a rate of 18% per annum, subject to the limitations of Georgia law) and any costs of collection (including attorneys fees). Such lien shall have the same priority as Association liens, as provided in Section 12.7, except that RPH-Toccoa's liens shall be superior to the Association's lien; provided, such lien shall not be superior to the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit or the Common Area. RPH-Toccoa may enforce its lien by suit, judgment, and judicial or non-judicial foreclosure in the same manner as the Association under Chapter 12. In addition, the payment of such fine shall be secured by the Association's lien for assessments under Section 12.7.

RPH-Toccoa may not exercise such remedies until it has given written notice to the Association and the violating Owner setting forth the violation and the requisite cure and the Association and/or the Owner has been given the opportunity to effectuate such cure which shall be undertaken no more than seven days after such written notice has been received by the Association and the Owner.

## Compliance and Enforcement

In the event neither the Association nor the Owner cures the violation and RPH-Toccoa exercises its right of self-help, RPH-Toccoa shall be entitled to recover from the Association all costs expended in curing the violation. The Association shall promptly reimburse RPH-Toccoa for all such costs and such amounts shall be a Specific Assessment levied against the Unit of the Owner violating the Governing Documents in accordance with Chapter 12.

In the event RPH-Toccoa, no longer owns any property identified in the Master Plan and con-

veys the ownership of any Private Amenity containing a golf course adjacent or near any boundary of Currahee Club, RPH-Toccoa, may, but shall not be obligated to, assign the rights set forth in this Section to the transferee of the Private Amenity.

*People need to be reminded more often than they need to be instructed. Samuel Johnson*

### NOTES AND THOUGHTS





## **PART THREE: ASSOCIATION OPERATIONS**

*Do what you can, with what you have, where you are.*

*Theodore Roosevelt*



## Chapter 9

### Property Management

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*One of the Association's primary functions is maintaining and operating property and facilities for the common benefit of the Owners and residents of Currahee Club. This Chapter establishes the Association's obligation to accept property that the Founder designates as Common Area or Limited Common Area and to maintain, operate, and insure it, along with certain other properties, for the benefit of Currahee Club.*

#### 9.1. Acceptance and Control of Association Property

**(a) Transfers and Conveyances by Founder.** The Founder and its designees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Community, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. **All such property shall be accepted by the Association "AS IS" without any representation or warranty, express or implied, in fact or by law, with respect thereto, or with respect to the improvements thereon or thereto, and without any representations or warranties regarding future repairs or regarding the condition, construction, accuracy, completeness, design, adequacy of the size or capacity in relation to the utilization, date of completion, or the future economic performance or operations of, or the materials which has been or will be used in such property or repairs.**

Upon the Founder's written request, the Association shall reconvey to the Founder any unimproved real property that the Founder originally conveyed to the Association for no payment, to the extent conveyed in error or needed

to make minor adjustments in property lines or accommodate changes in the development plan.

**(b) Management and Control.** The Association is responsible for management, operation, and control of the Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area, for payment or no payment, as the Board deems appropriate. The Association may permit use of Common Area facilities by persons other than Owners and occupants of Units and may charge use fees, in such amount as the Board may establish, for such use.

#### 9.2. Maintenance of Area of Common Responsibility

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility includes, but is not limited to:

(a) the Common Area, including, but not limited to, all landscaping and other flora, natural formations, fences, if any, parks, ponds and lakes (including stocking such ponds and lakes with fish as it deems appropriate), structures, entry gates and other improvements, any private streets shown as such on a recorded plat, biking, walking, and hiking pathways/trails, situated upon the Common Area, a Unit, or abutting the Community;

(b) landscaping within public rights-of-way within or abutting Currahee Club;

(c) such portions of any additional property as may be dictated by the Founder, this Charter, any Supplement, or any covenant or agreement

## Property Management

for maintenance entered into by, or otherwise binding on the Association (including any agreement with any governmental and quasi-governmental entity); and

(d) any property and facilities that the Founder owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. The Founder shall identify any such property and facilities by written notice to the Association, and they shall remain part of the Area of Common Responsibility until the Founder revokes such privilege of use and enjoyment by written notice to the Association.

The Association shall also be responsible for proper functioning of the stormwater drainage system serving the Community, including maintenance, repair and replacement, as needed, of pipes, culverts, and other structures and equipment comprising the system. It shall have no responsibility for landscaping or other maintenance of Units burdened by stormwater drainage easements unless otherwise specifically set forth in a Supplement or in a recorded agreement or plat.

The Association may maintain other property it does not own, including, without limitation, Units, property dedicated to the public, or property owned or maintained by a Neighborhood Association, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

The Association may, but shall not be required, provide insect, pest, and aquatic control to the extent that it is necessary or desirable to supplement any such control provided by state or local governmental body. The Association shall have a perpetual easement over the Community for the purpose of dispensing pesticides and to

take other action is necessary or desirable to control insects or vermin.

### 9.3. Discontinuation of Operation

The Association shall maintain the Common Area facilities in continuous operation unless the Founder, during the Development and Sale Period, and Voting Delegates representing 75% of the total votes in the Association consent in writing to discontinue such operation. If the property is Limited Common Area, any discontinuation shall also require the approval in writing of at least 75% (or such higher percentage as a Supplement may require) of the Owners to whom such Limited Common Area is assigned. This paragraph shall not restrict the Board's ability to establish reasonable operating hours, which may vary by season, the right to close seasonally any of the Common Areas, nor to preclude temporary closures or interruptions in operation as the Board may determine appropriate to perform maintenance or repairs.

### 9.4. Restoring Damaged Improvements



This provision ensures that desirable Common Area improvements will be replaced if destroyed, but it also makes it possible *not* to repair or rebuild if the Owners who benefit from the Common Area do not want it anymore.

In the event of damage to or destruction of portions of the Area of Common Responsibility for which the Association has insurance responsibility, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially its condition prior to the damage, allowing for changes or improvements necessitated by changes in applicable use or building codes.

The Association shall repair or reconstruct damaged Common Area improvements unless the Founder, during the Development and Sale Period, and Voting Delegates representing at

## Property Management

least 75% of the total votes in the Association, decide within 60 days after the loss not to repair or reconstruct. If the damage is to Limited Common Area or Units within a Service Area, any decision not to restore the damaged improvements shall also require the approval of at least 75% of the Owners of Units in the affected Service Area. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. No Mortgagee shall have the right to participate in determining whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall retain and place in a capital improvements account for the benefit of all Owners, or the Owners of Units within the affected Service Area, as appropriate, any insurance proceeds remaining after paying the costs of repair or reconstruction or after such settlement as is necessary and appropriate. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Voting Delegates, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 11.4.

### 9.5. Relationships with Other Properties

The Association may contract with the owner of any neighboring property or Private Amenity to provide for sharing of costs associated with (a)

maintenance and operation of mutually beneficial properties or facilities, or (b) provision of mutually beneficial services.

*We cannot escape the responsibility of tomorrow by evading it today. Abraham Lincoln*

## NOTES AND THOUGHTS

## Chapter 10

### Provision of Services

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*In addition to its property management role, the Association is a vehicle for providing a variety of services for the benefit of the Community at large and individual Units. This Chapter describes some of the services the Association may provide and the mechanism by which it may provide varying levels and types of services to different areas of the Community.*

#### 10.1. Provision of Services to Units

The Association may, but is not obligated to, arrange for or provide services to Owners and their Units, directly or through contracts with the Founder or other third parties. The Association may enter into bulk service agreements by which a particular service is provided to all Units, or it may offer various services at the option of each Owner, or both. By way of example and not limitation, such services might include such things as cable television, utilities, fire protection, security, trash collection, landscape maintenance, pest control, caretaker services and technology services.

Any Association contract for services may require individual Owners or occupants to execute separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Unit, may result in termination of services provided to such Unit. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Unit as a Common Expense or Service Area Expense pursuant to Chapter 12.

In its discretion, the Board may discontinue offering particular services and may modify or cancel existing contracts for services, subject to

the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Association to provide such services.

#### 10.2. Provision of Services to Service Areas

##### (a) *Service Areas Designated by Founder.*

The Association shall provide services to Units within any Service Area designated by the Founder pursuant to Section 3.3 as required by the terms of any Supplement applicable to the Service Area.

##### (b) *Service Areas Designated by Board.*

In addition to Service Areas which the Founder may designate pursuant to Section 3.3, any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiving from the Association (i) special benefits or services which are not provided to all Units, or (ii) a higher level of service than the Association otherwise provides. Any such petition shall be signed by Owners of a majority of the Units within the proposed Service Area. Upon receipt of such petition, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the initial fees for providing the requested service, which may include a reasonable administrative charge. If Owners of at least 67% of the Units within the proposed Service Area approve the proposal in writing, the Board shall designate the Units as a Service Area and include the fees for such service as a line item in the Service Area budget pursuant to Section 12.2(c).

#### 10.3. Community Technology

(a) *Community Systems.* Without limiting the generality of Sections 10.1 and 10.2, the As-

## Provision of Services

sociation is specifically authorized, **but is not obligated to**, to provide, or to enter into contracts with other Persons to provide, central telecommunication receiving and distribution systems (e.g., cable television, high speed data/Internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software, to serve the Community ("**Community Systems**"). Any such contracts may provide for installation, operation, management, maintenance and upgrades or modifications to the Community Systems as the Board determines appropriate. The Association shall have no obligation to utilize any particular provider(s). However, except for cause (as defined by written agreement with the provider), the Association may not, without the Founder's consent, terminate or refuse to renew any contract entered into during the Founder Control Period.

**(b) Opportunities for Community Interaction.** The Association may make use of computers, the Internet, and expanding technology to facilitate community interaction and encourage participation in Association activities. For example, the Association may create and maintain a community intranet or Internet home page, maintain an "online" newsletter or bulletin board, and offer other technology-related services and opportunities for Owners and occupants to interact and participate in Association-sponsored activities. To the extent Georgia law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send notices by electronic means, hold Board or Association meetings and permit attendance and voting by electronic means, and send and collect assessment and other invoices by electronic means.

*I think there is a world market for maybe five computers.*

*Thomas Watson, Chairman of IBM, 1943*

## NOTES AND THOUGHTS



## Chapter 11

### Association Insurance

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*The Association is responsible for insuring against various types of risks, including property damage, personal injury, and liability. This Chapter describes the minimum types and amounts of coverage that the Association must obtain, the specific requirements for such policies, and the handling of deductibles and premiums for such insurance.*

#### 11.1. Required Coverages

The Association at all times shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on;

(i) the Common Area;

(ii) other portions of the Area of Common Responsibility, to the extent that the Association has responsibility for repair or replacement in the event of a casualty; and

(iii) any Service Area, to the extent specified or authorized by any applicable Supplement.

If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The limits of Association property insurance policies shall be sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes.

In addition, if a Supplement so specifies, the Association shall obtain and maintain property insurance on the insurable improvements within

a Service Area, which insurance shall comply with the above requirements.

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(d) Directors and officers liability coverage; and

(e) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-sixth of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Toccoa, Georgia area. In the

## Association Insurance

exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than this Section requires.

### 11.2. Deductibles



Persons who cause damage to insured improvements can be charged for the insurance deductible amount by the Board. This ensures that the Association need not pay for such damages.

The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 11.1. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

### 11.3. Policy Requirements



Subrogation is a legal concept which means the substitution of one person in the place of another with respect to a certain lawful claim, demand, or right so that the person who is substituted stands in the place and receives the rights of the other person in relation to the claim, demand, or right. For example, insurance companies generally have the right to step into the shoes of the party whom they compensate and sue any party whom the compensated party could have sued.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner.

To the extent available at reasonable cost and terms, all Association insurance shall:

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

(b) be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members, except that policies on Limited Common Area shall be for the benefit of the Owners of Units within the Service Area to which the Limited Common Area is assigned and their Mortgagees, as their interests may appear;

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

(d) contain an inflation guard endorsement;

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

(f) provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Association;

(g) provide a waiver of subrogation against any Owner or household member of an Owner; and

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation.

## Association Insurance

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

(a) a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;

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

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

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

(e) a cross liability provision; and

(f) a provision vesting in the Board exclusive authority to adjust losses. However, Mortgagees having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

### 11.4. Insurance Premiums

Premiums for all Association insurance shall be a Common Expense, except that premiums for property insurance on Units within, or Limited Common Areas assigned to, a particular Service Area shall be a Service Area Expense, unless the Board reasonably determines that other treatment of the premiums is more appropriate.

## NOTES AND THOUGHTS

## Chapter 12

### Association Finances

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*This Chapter provides for various types of funding to cover expenses that the Association incurs or expects to incur in exercising its authority and performing its responsibilities under the Governing Documents. The primary source of funding is the assessments which this Chapter authorizes the Association to levy against the Units and collect from the Owner of each Unit. Assessments are secured by a lien on each Unit as described in this Chapter.*

#### 12.1. Association Expenses

**(a) Common Expenses.** Except as the Governing Documents otherwise specifically provide, all of the expenses that the Association incurs, or expects to incur, in connection with the ownership, maintenance, and operation of the Area of Common Responsibility, and otherwise for the general benefit of the Owners, are considered "**Common Expenses.**" Common Expenses include such operating reserves and reserves for repair and replacement of capital items within the Area of Common Responsibility as the Board finds necessary or appropriate.

Common Expenses shall not include any expenses incurred during the Founder Control Period for initial development or original construction costs unless the Voting Delegates (other than Founder appointees) representing a majority of the total vote in the Association approve such expenditure. Payments due under leases of capital improvements such as streetlights shall not be considered an initial development or original construction cost.

The characterization of a particular expense as a "Common Expense" shall not preclude the Association from seeking reimbursement for, or a contribution toward, such expenses from other Persons who may be responsible for the expenses incurred or for sharing such expenses pursuant to

this Charter, any Supplement, or any other recorded covenants or agreements.

**(b) Service Area Expenses.** All expenses that the Association incurs or expects to incur in connection with the ownership, maintenance and operation of Limited Common Areas, or in providing other benefits and services to a Service Area, if any, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area as the Board finds necessary or appropriate, are considered "**Service Area Expenses.**" Service Area Expenses may include a reasonable administrative charge in such amount as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate per Unit among all Service Areas receiving the same service.

#### 12.2. Budgeting for and Allocating Association Expenses.

**(a) Preparation of Budget.** At least 40 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. In addition, the Board shall prepare a separate budget for each Service Area, if any, reflecting the estimated Service Area Expenses that the Association expects to incur for the benefit of such Service Area in the coming year.

The estimated expenses in each budget may include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense or as a Service Area Expense of the Service Area for whom the budget is prepared, as applicable, as the board finds necessary or appropriate. In determining the amount of such reserve contribution, the

## Association Finances

Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost, and the contribution required to fund the projected needs by annual contributions over the useful life of the asset.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units (including amounts to which the Association is entitled pursuant to any covenant or agreement to share costs), and the amount to be generated through the levy of Base Assessments and Service Area Assessments pursuant to Subsections (b) and (c).

### **(b) Calculation of Base Assessments.**

The total budgeted Common Expenses, less any surplus in the Common Expense budget from prior years and any income anticipated from sources other than assessments against the Units, shall be allocated equally among all Units subject to assessment under Section 12.5 and levied as a "**Base Assessment.**"

The Founder may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Founder under Section 12.6(b)). Any such subsidy may be treated as a contribution, an advance against future assessments due from the Founder, or a loan, in the Founder's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Founder to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Founder.

**(c) Calculation of Service Area Assessments.** The total Service Area Expenses budgeted for each Service Area, less any surplus

in such Service Area budget from prior years, shall be allocated among all Units in the Service Area that are subject to assessment under Section 12.4 and levied as a "**Service Area Assessment.**" Unless otherwise specified in any Supplement applicable to a Service Area, Service Area Assessments shall be set at a uniform rate per Unit in the Service Area, except that any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures may be levied on each of the benefited Units in proportion to the benefit received, as the Board may reasonably determine.

All amounts the Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

**(d) Notice of Budget and Assessment; Right to Disapprove.** The Board shall send a copy of each applicable budget, together with notice of the amount of the Base Assessment and any Service Area Assessment to be levied pursuant to such budgets, to each Owner at least 30 days prior to the due date of the assessments to be levied pursuant to such budget. The Common Expense budget shall automatically become effective unless disapproved at a meeting by Voting Delegates representing at least 75% of the total votes in the Association and by the Founder Member, if such exists. Each Service Area budget shall automatically become effective unless disapproved at a meeting by Owners of at least 75% of the Units within the Service Area, except that the right to disapprove a Service Area budget shall apply only to those line items which are attributable to services or benefits requested by the Service Area and shall not apply to any item which the Governing Documents require to be assessed as a Service Area Expense.

There shall be no obligation to call a meeting for the purpose of considering any budget except,

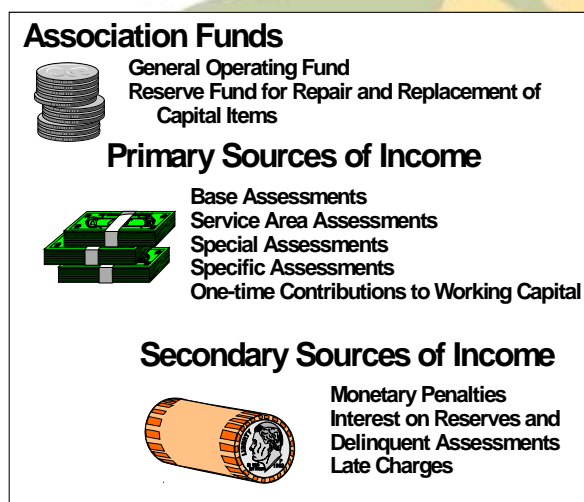


## Association Finances

in the case of the Common Expense budget, on petition of the Voting Delegates representing at least 67% of the total votes in the Association, and in the case of a Service Area budget, on petition of Owners of at least 67% of the Units within the Service Area. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect, increased by 10%, shall continue in effect until a new budget is determined.

**(e) Budget Revisions.** The Board may revise the budget and adjust the Base Assessment or Service Area Assessments anytime during the year, subject to the same notice requirements and rights to disapprove set forth in Subsection (d) above.



### 12.3. Special Assessments

The Association may levy "**Special Assessments**" to cover Common Expenses or Service Area Expenses that are non-routine, unanticipated, or in excess of those anticipated in the applicable budget. Except as otherwise specifically provided in this Charter, any Special Assessment

for Common Expenses shall require the affirmative vote or written consent of Voting Delegates representing more than 50% of the votes attributable to Units subject to assessment under Section 12.5 and shall be allocated equally among all such Units. Any Special Assessment for Service Area Expenses shall require the affirmative vote or written consent of Owners representing more than 50% of the total votes allocated to Units in the benefited Service Area and shall be allocated in the same manner as Service Area Assessments under Section 12.1(b). In addition, as long as the Founder membership exists, any Special Assessment shall also be subject to the Founder's written consent. Special Assessments shall be payable in such manner and at such times as the Board determines and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

### 12.4. Specific Assessments

The Association may levy "**Specific Assessments**" against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to the Unit upon request of the Owner pursuant to any menu of optional services which the Association may offer (which might include the items identified in Section 10.1). Specific Assessments for optional services may be levied in advance of the provision of the requested service;

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

(c) to cover the Unit's pro rata share of any costs that the Association incurs in bringing the



## Association Finances

Service Area of which the Unit is a part into compliance with the provisions of the Governing Documents; however, the Board must give prior written notice to the Owners of Units in the Service Area and an opportunity for such Owners to be heard before levying any such assessment.

### 12.5. Authority to Assess Owners; Time of Payment

The Founder hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Chapter and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following the date on which the Unit is made subject to the Charter. Until such date on which the dwelling on a Unit is substantially completed, as determined by the Association in its sole discretion, the Unit shall be assessed at the rate of 50% of the Common Expenses Assessment or Service Area Assessment, if any, levied on other Units similarly situated. The first annual Base Assessment and Service Area Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

### 12.6. Obligation for Assessments



By buying a Unit in Currahee Club, each Owner agrees to pay all assessments levied against his or her Unit. If the Owner does not pay on time, that Owner will be charged late fees on all past due amounts. Owners may not claim a reduction in their assessments due to action or inaction by the Association.

In some instances, the Founder may choose to pay the difference between the Association's budgeted and actual expenses, rather than paying assessments on the Units it owns. The Founder is free to do so only during the Founder Control Period.

**(a) Personal Obligation.** By accepting a deed or entering into a recorded contract to purchase any Unit, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 18% per annum or such higher rate as the Board may establish, subject to the limitations of Georgia law), late charges as determined by Board resolution, costs, and reasonable attorneys fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Service Area Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner may exempt himself or herself from liability for assessments by non-use of

## Association Finances

Common Area, abandonment of his or her Unit, or non-use of services provided to all Units or to all Units within the Service Area to which the Unit is assigned. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

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

**(b) Founder's Financial Obligations to Association.** The Founder shall be liable for assessments on any Units it owns that are subject to assessment under this Section, except that during the Founder Control Period, the Founder may satisfy its obligation to pay Base Assessments and Special Assessments for Common Expenses on Units it owns either by paying such assessments in the same manner as any other Owner, or by paying (i) any shortfall under the Common Expense budget resulting from events other than failure of other Owners to pay their assessments, and (ii) any budgeted contributions to reserves in accordance with the Common Expense budget. Unless the Founder otherwise notifies the Board in writing at least 30 days before the beginning of each fiscal year, the Founder shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. After termination of the Founder Control Period, the Founder shall pay Base Assessments on any Units it owns that are subject to assessment under Section 12.5 in the same manner as any other Owner liable for such assessments.

Regardless of the Founder's election under this Section, any of the Founder's financial obligations to the Association may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

### 12.7. Lien for Assessments



To insure that each Owner pays his or her assessments, the Association has a lien against the Units when assessments are not paid in a timely fashion. This means that if an Owner does not pay his or her assessments on time, the Association could foreclose the lien, thus causing the Owner's Unit to be sold to pay the past due assessments. Alternatively, the Association may sue an Owner in court to recover past due assessments.

The Association shall have a lien against each Unit to secure payment of assessments, as well as interest, late charges (subject to the limitations of Georgia law), and costs of collection (including attorneys fees and expenses). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, (b) the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit, and (c) the lien to secure the payment of any fine levied by RPH-Toccoa in accordance with Section 8.6.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Unit the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not affect the validity, enforceability, or priority of the lien.

## Association Finances

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner of the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 12.6, including such acquirer, its successors and assigns.

### 12.8. Exempt Property

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

- (a) All Common Area and such portions of the property owned by the Founder as are included in the Area of Common Responsibility;
- (b) Any property dedicated to and accepted by any governmental authority or public utility; and
- (c) Property owned by any Neighborhood Association for the common use and enjoyment

of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, the Association may, by resolution, grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Charter for purposes listed in Section 501(c) of the Internal Revenue Code.

### 12.9. Capitalization of Association

Upon acquisition of record title to a Unit by any Person other than the Founder, the Owner shall make a contribution to the working capital of the Association in an amount equal to one-fourth of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and any Service Area Assessment levied on the Unit and shall not be considered an advance payment of such assessments. This amount shall be due and payable to the Association immediately upon transfer of title, for its use in covering initial start-up expenses, operating expenses and other expenses which it incurs pursuant to this Charter and the By-Laws.

### 12.10. Use and Consumption Fees

The Board may charge use and consumption fees to any Person using Association services or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (*e.g.*, Owners and non-Owners).

## **PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY**

*You don't get harmony when everybody sings the same note.*

*Doug Floyd*



## Chapter 13

### Easements

*The easements created in this Chapter establish the rights of Owners to use the Common Area and create various rights for the benefit of owners, the Founder, the Association, and others over property within the Community. Some of these rights are related to development and construction within the Community and on adjacent property, while others relate to the rights of Association to come upon property of others to fulfill its responsibilities and the interrelationships between the Community and the owners of adjacent property.*

#### 13.1. Easements in Common Area



An easement is one person's right to go onto the property of another.

The Founder grants to each Owner a non-exclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The Board's right to:
  - (i) adopt rules regulating Common Area use and enjoyment, including rules limiting the number of guests who may use the Common Area, and to charge use fees for such use;
  - (ii) suspend an Owner's right to use Common Area facilities;
  - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Charter;

- (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

- (v) rent any portion of the Common Areas on an exclusive or non-exclusive short-term basis to any Person;

- (vi) permit use of any recreational facilities situated on the Common Area by the general public, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion; and

- (vii) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

- (d) Certain Owners' rights to the exclusive use of those portions of the Common Area designated "Limited Common Area."

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

#### 13.2. Easements of Encroachment



An encroachment occurs when a person's home, fence, or structure of any kind is placed on his or her neighbor's property. This Section provides that minor, inadvertent encroachments are permitted.

The Founder grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and



## Easements

between adjacent Units or any Unit and any Private Amenity. A permitted encroachment is a structure or fixture that extends unintentionally from one person's property onto another's a distance of less than one foot, as measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

### 13.3. Easements for Utilities, Etc

(a) *Installation and Maintenance.* During the Development and Sale Period, the Founder reserves for itself and reserves the right to grant to the Association and all utility providers, perpetual non-exclusive easements throughout Currahee Club (but not through a structure) to the extent reasonably necessary to:

(i) install utilities and infrastructure, other Community Systems, security and similar systems, and drainage systems to serve Currahee Club;

(ii) install walkways, pathways and trails, street lights, and signage on property the Founder or the Association owns or within public rights-of-way or easements reserved for such purpose on a recorded plat;

(iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; and

(iv) access and read utility meters.

Notwithstanding the above, the Founder reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) *Specific Easements.* The Founder also reserves for itself the non-exclusive right and power to grant and record such specific easements as it deems necessary to develop the prop-

erty described in Exhibits "A" and "B." The location of the easement shall be subject to the written approval of the burdened property Owner, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) *Minimal Interference.* All work associated with the exercise of the easements described in Subsections (a) and (b) of this Section shall be performed so as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

### 13.4. Easements to Serve Additional Property

The Founder hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Charter. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. The Person exercising such easement rights shall be responsible for any damage caused to the Common Area as a result of their actions in connection with development of such property.

If the above easement grants permanent access to any property which is not submitted to this Charter, excluding any golf course within or adjacent to the Community, the Founder, or its successors or assigns, shall enter into a reasonable



## Easements

agreement with the Association to share the cost of maintenance that the Association provides for the benefit of the easement holder. The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property.

### 13.5. Easements for Maintenance, Emergency, and Enforcement



The Association may come onto the exterior portions of your Unit to do maintenance or to address violations of the covenants. This Section describes the extent of the Association's right in this regard.

By this Charter, the Founder grants to the Association easements over Currahee Club as necessary to enable the Association to fulfill its maintenance responsibilities under Chapter 6 and its enforcement rights under Chapter 8. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with the Governing Documents, and to enforce the Governing Documents. Any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

### 13.6. Easements for Lake and Pond Maintenance and Flood Water



The Founder and the Association have the right to access property bordering water bodies for maintenance and irrigation reasons. They also have the right to cause water bodies in Currahee Club to rise above and fall below their normal banks to perform maintenance.

The Founder reserves for itself, and grants to the Association, and their respective successors, assigns, and designees, the nonexclusive right and

easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. The Founder, the Association, and their successors, assigns, and designees shall have an access easement over and across any of Currahee Club abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

The Founder further reserves for itself and grants to the Association, and to their respective successors, assigns, and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 50 feet of bodies of water and wetlands within Currahee Club, to (a) temporarily flood and back water upon and maintain water over such portions of Currahee Club; (b) alter in any manner, including raising and lowering the water level, and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make the Founder or any other Person liable for damage resulting from flooding due mechanical failure or due to weather events or other natural occurrences.

## Easements

### 13.7. Easements for Golf Courses



If a golf course is close to your Unit, you can expect that golf balls and people will come on or near your Unit. This Section acknowledges that activities relating to the golf course will affect Units.

The Community is burdened with an easement permitting golf balls unintentionally to come upon areas adjacent to or in the vicinity of a golf course, and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood Association, or the exterior portions of a Unit to retrieve errant golf balls. However, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls.

Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Founder; the Association or its members (in their capacities as such); the owner of a golf course, its successors, successors-in-title to the golf course, or assigns; any builder or contractor (in their capacities as such); any shareholder, officer, director, or partner of any of the foregoing, or any officer or director of any partner.

The owner of any golf course within or adjacent to any portion of Currahee Club, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair, and replacement of its golf course. This easement shall include, but is not limited to, the golf course owner's right to draw water from any lake within the Community as reasonably necessary for the operation, maintenance, repair, and replacement of its golf course.

The Community is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course. Water used to irrigate the golf course may be water drawn from ponds or lakes located within or outside the Community, including Lake Hartwell, or other sources. Such water may or may not be treated, may or may not be potable water, and may be irrigation quality water. **Under no circumstances shall Founder, the Association, or the owner of such golf course be held liable for any damage, injury, or nuisance resulting from such overspray or the exercise of this easement.**

The owner of any golf course within or adjacent to any portion of Currahee Club, its successors and assigns, shall have a perpetual, exclusive easement of access over Currahee Club for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from its golf course.

The Community is hereby burdened with easements in favor of the golf course for golf cart paths serving the golf course. Under no circumstances shall the Association or the owner of the golf course, or their respective agents, successors, or assigns, be held liable for any damage or injury resulting from the exercise of this easement.

Furthermore, the owner of any golf course, its respective agents, successors and assigns, as well as its members, guests, invitees, employees, and authorized users of the golf course shall at all times have a right and non-exclusive easement of access and use over the golf cart paths, if any, and located within the Community as reasonably necessary for the use and enjoyment of the golf course. Use of the cart paths for any other purpose than for use and enjoyment of the golf course in accordance with the rules and regulations of the owner of the golf course is prohibited. Such prohibition, includes, without limitation, use of the cart paths for walking, jogging,

## Easements

bicycling, skateboarding, rollerskating, rollerblading, and walking animals.

### 13.8. Easements for Access to Cemetery Site

A cemetery site of historic importance exists within the Common Areas of the Community. The cemetery site shall not be disturbed or removed either by Founder, the Association, or any Owner or occupant of a Unit. The Association shall be obligated to protect and preserve the cemetery in accordance with the Community-Wide Standard. Protection and preservation of the cemetery site may include, but is not limited to, the construction of walls, fences, gates, and barriers and the installation of signs, plants, and other landscaping. The cost of maintaining such protection and preservation measures shall be a Common Expense of the Association.

Founder reserves for itself and the Association a nonexclusive, perpetual easement over the Common Areas to maintain and preserve the cemetery site. Such easement shall affect only such portions of the Common Area as Founder or the Association, as the case may be, deems reasonably necessary for such purposes. Founder further reserves for itself and the Association the right to grant nonexclusive easements over the Common Areas to (a) travel to and from such cemetery site and (b) perform traditional, cultural and/or religious practices at such cemetery site, to any individual who is or may be related to any individual interred at such cemetery site. Both Founder and the Association reserve the right to require proof of the relationship to the interred. Such easements shall affect only such portions of the Common Areas as Founder or the Association, as the case may be, deems reasonably necessary for such purposes and may be subject to such reasonable terms, conditions and restrictions that Founder or the Association may impose. Persons utilizing easements pursuant to this Section should do so in a careful, considerate and conscientious manner and take reasonable steps to avoid disturbing Owners.

### 13.9. Easements over Private Roadways

(a) Not later than the expiration of the Development and Sale Period, the Founder will transfer the private roadways within the Community ("**Roadways**") to the Association as Common Area, subject to the easements for access described in this Charter, easements previously created for the benefit of property adjacent to the property described on Exhibits "A" and "B," and such additional easements as the Founder deems appropriate. Use of such Roadways shall be subject to and in accordance with any rights and easements shown on the recorded subdivision plats of the Community and such reasonable Use Restrictions and Rules as the Association may adopt from time to time consistent with this Charter, the recorded subdivision plats, and any law, ordinance, or regulation governing the Community.

(b) The Founder hereby reserves for itself, its agents, employees, successors, assigns, and other persons it may designate, an easement over the Roadways for the purpose of constructing, maintaining, repairing, or rebuilding any subdivision improvements installed or to be installed in the Community and for performing any other work within the Community which the Founder deems reasonably necessary, in its discretion, or which the Founder is required to perform pursuant to a contract with any Owner or pursuant to the requirements of any government agency having jurisdiction over the Community. The Founder hereby authorizes the contractors, subcontractors, laborers, materialmen, and other Persons providing construction services and materials to any Unit to exercise this easement for access to such Unit, subject to such rules as the Association may adopt; however, during the Development and Sale Period, the Founder shall have the right to restrict use of all or portions of the Roadways and designate alternate access for such Persons, and to revoke such authorization and prohibit the use of the Roadways by Persons who violate the Governing Documents or any agreement with the Founder.

## Easements

(c) The Founder hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the Roadways for law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; utility providers, and for vehicles, equipment, and personnel providing garbage collection service to the Community; however, such easement shall not authorize any such Persons to enter the Community except while acting in their official capacities. The Association shall have the right to limit access for garbage collection purposes to such days of the week as the Board may specify.

(d) Founder reserves for itself and affiliates of Founder a perpetual, non-exclusive easement of access to and use of the Roadways and Common Areas in connection with the marketing and sale of other communities which Founder or any affiliates of Founder may be developing and marketing, in order to show the Community as an example of the Founder's developments.

(e) The Founder hereby establishes for the benefit of the Private Amenities and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all Roadways reasonably necessary to travel between the entrance to Currahee Club and the Private Amenities. Without limiting the generality of the foregoing, members of the Private Amenities and guests and invitees of the Private Amenities shall have the right to park their vehicles on the Roadways at reasonable times before, during, and after tournaments and other similar functions held by or at the Private Amenities, to the extent that the Private Amenities have insufficient parking to accommodate such vehicles.

(f) The existence of the easements described in this section shall not preclude the Association from maintaining gates or other devices or systems designed to limit general vehicular access to

the Community, provided that the Association at all times maintains systems and/or procedures to permit entry of Persons authorized to exercise the easements granted in this subsection without unreasonable interference or delay.

## NOTES AND THOUGHTS

## Chapter 14

### Private Amenities

*Various recreational and other facilities may be located within or in the vicinity of the Community that are privately owned and operated by Persons other than the Association. Those facilities are not part of the Common Area of the Community and ownership of property in the Community does not give any person the right to use them. This Chapter explains the right of the owners of those facilities to determine if and on what terms they wish to make their facilities available for use by Owners. It also establishes certain rights for the benefit of the owners of such facilities.*

#### 14.1. General

Any property and facilities located within, adjacent to, or near Currahee Club which Persons other than the Association own and operate for recreational, commercial and related purposes are "**Private Amenities.**" The Private Amenities shall include, without limitation, any golf courses that are located and their related and supporting facilities and improvements.

No Person gains any right to enter or to use any Private Amenity by virtue of membership in the Association or ownership or occupancy of a Unit except as set forth in the Recreational Covenant. Access to and use of any Private Amenity is strictly subject to the rules and procedures of the owner of such Private Amenity.

Pursuant to the Recreational Covenant, every Owner shall be extended a "Resident" membership in the "Social" use category in The Currahee Club ("**Club**"). Membership in the Club is subject to the terms of the "Membership Policies," including, the provisions regarding payment of membership dues and fees and the Club's rules and policies, including suspension and expulsion from the Club. By virtue of taking title to a Unit, each Owner agrees, on behalf of itself, its heirs, personal representatives, and successors-in-title

to the Unit, to pay periodic dues to the Club regardless of such Owner's use or nonuse of the Club's facilities and to comply with the terms of the Membership Policies as long as such Owner owns a Unit within the Community subject to the Recreational Covenant. Each Owner's Resident membership in the Social use category in the Club shall be effective immediately upon taking title to a Unit subject to the Recreational Covenant and shall continue so long as such Owner owns a Unit within the Community subject to the Recreational Covenant, subject to all of the provisions of the Membership Policies. The obligation to pay dues to the Club and the benefits of the Resident membership in the Social use category in the Club shall run with the title to the Unit subject to the Recreational Covenant and shall be binding on all subsequent Owners of such Unit.

The Club, or its successors or assigns, as set forth in the Recreational Covenant, has a lien against each Unit subject to the Recreational Covenant to secure the obligation of each such Unit to pay any and all membership dues as set forth in the Recreational Covenant. Such liens shall also secure the interest on any unpaid membership dues (subject to the limitations of Georgia law) and any costs of collection (including attorneys fees, lien fees, and administrative costs). Such liens shall be superior to all other liens except those held by the Association and those set forth in Section 12.7(a). The Club may enforce its lien by suit, judgment, and judicial or non-judicial foreclosure in the same manner as the Association under Chapter 12. Furthermore, in the event that any Owner owes to the Club dues or fees that are 90 or more days past due, upon written notification from the Club, the Association shall pay such dues on behalf of the Owner to the Club and the Association shall levy a Specific Assessment in accordance with Section



## Private Amenities

12.4 against such Owner's Unit in the amount paid to the Club.

Each Owner and occupant of a Unit acknowledge and agrees to refrain from, and to cause their respective guests and invitees to refrain from, entering upon a Private Amenity, including any portion of any golf course, except in accordance with the Recreational Covenant without the prior permission of the owner or operator of the Private Amenity and further acknowledge and agree that any such unauthorized entry may be deemed a trespass.

All Persons are hereby advised that no representations or warranties have been or are made by the Founder, the Association, or by any Person acting on behalf of any of the foregoing with regard to the continuing ownership or operation of the Private Amenities. No purported representation or warranty in such regard, written or oral, shall be effective unless specifically set forth in a written instrument which the record owner of the Private Amenity executes.

Ownership or operation of any Private Amenity may change at any time. This may be for different reasons, such as (a) the sale to or assumption of operations by an independent Person, (b) establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenity, or (c) the conveyance of a Private Amenity to one or more affiliates of Founder. Consent of the Association, any Neighborhood Association, or any Owner shall **not** be required to effectuate any change in ownership or operation of any Private Amenity, subject to the terms of any written agreements entered into by such owners.

Additional rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have

the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether.

### 14.2. View Impairment

The Founder, the Association, or the owner of any Private Amenity, does not guarantee or represent that any view over and across the Private Amenity from Units adjacent to the Private Amenity will be preserved without impairment. Owners of the Private Amenities shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to the Private Amenities from time to time. In addition, the owner of any Private Amenity which includes a golf course may, in its sole and absolute discretion, change the location, configuration, size, and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

### 14.3. Rights of Access and Parking

There is hereby established for the benefit of any Private Amenity and its members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all private roadways located within Currahee Club reasonably necessary to travel between the entrance to Currahee Club and the Private Amenity and over those portions of Currahee Club (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Private Amenity. Without limiting the generality of the foregoing, members of any Private Amenity and the guests and invitees of such Private Amenity shall have the right to park



## **Private Amenities**

their vehicles on the roadways located within Currahee Club at reasonable times before, during, and after tournaments, other similar functions, and special events held by or at the Private Amenity to the extent that the Private Amenity has insufficient parking to accommodate such vehicles.

### **14.4. Design Control**

No person shall approve any improvement to any portion of Currahee Club which is adjacent to or otherwise in the direct line of sight of any Private Amenity without giving the Private Amenity at least 30 days' prior written notice of its intent to approve the same together with copies of the request and all other documents and information finally submitted in such regard. The owner of such Private Amenity shall then have 30 days to respond in writing approving or disapproving the proposal, stating in detail the reasons for any disapproval. The failure of the owner of such Private Amenity to respond to the notice within the 30-day period shall constitute a waiver of the Private Amenity's right to object to the matter. This Section shall also apply to any work on the Common Area or any common property or common elements of a Neighborhood Association, if any.

### **14.5. Limitations on Amendments**

In recognition of the fact that the provisions of this Chapter are for the benefit of the Private Amenities, no amendment to this Chapter, and no amendment in derogation of any other provisions of this Charter benefiting any Private Amenity, may be made without the written approval of the Private Amenities. However, the foregoing shall not apply to the Founder's amendments.

### **14.6. Jurisdiction and Cooperation**

It is the Founder's intention that the Association and the Private Amenities shall cooperate to the maximum extent possible in the operation of

Currahee Club and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Design Guidelines.

### **14.7. Assessments**

In consideration of the fact that the Private Amenity will benefit from maintenance of the roads, rights-of-way, and Common Areas within Currahee Club, after termination of the Founder Control Period a Private Amenity and the Association may enter into a contractual arrangement or covenant to share costs obligating the Private Amenity to contribute funds for, among other things, shared property or services and/or a higher level of Common Area maintenance.

## Chapter 15

### Disclosures and Waivers

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*This Chapter discloses some important information about the Community for the benefit of prospective purchasers of property in the Community. Each Owner, by accepting a deed to property in the Community, also accepts and agrees to the matters set forth in this Chapter.*

#### 15.1. Facilities and Services Open to the Public

Certain facilities and areas within Currahee Club may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. The Founder may designate such facilities and areas as open to the public at the time the Founder makes them a part of the Area of Common Responsibility, or the Board may so designate at any time thereafter. **Each Owner and occupant of a Unit, by accepting any interest in a Unit or occupying a Unit, acknowledges that such public access may occur and agrees that the Association shall have no responsibility or liability for monitoring, restricting, or preventing such access, nor for any loss or damage that any person exercising such easements may cause.**

#### 15.2. Safety and Security

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Currahee Club. The Association may, but shall not be obligated to, maintain or support certain activities within Currahee Club designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. How-

ever, neither the Association nor the Founder shall in any way be considered insurers or guarantors of safety or security within Currahee Club, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

**No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to Currahee Club, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board and committees, and the Founder are not insurers or guarantors of security or safety and that each Person within Currahee Club assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.**

#### 15.3. Changes in Master Plan

Each Owner acknowledges that Currahee Club is a master planned community, the development of which is likely to extend over many years, and agrees that neither the Association nor any Neighborhood Association shall engage in, or use Association funds to support, any protest, challenge, or other form of objection to (a) changes in uses or density of property within Currahee Club, or (b) changes in the Master Plan as it relates to property outside Currahee Club,

## Disclosures and Waivers

without the Founder's prior written consent, which consent may be granted or withheld in the Founder's discretion.

### 15.4. View Impairment

Neither the Founder nor the Association guarantee or represent that any view over and across the Units, any open space within the Community, or any golf course or other Private Amenity will be preserved without impairment. The Founder, the Association, and any Private Amenity owner shall not be obligated to relocate, prune, or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate covenant or agreement. The Association (with respect to the Common Area) and Private Amenity owners (with respect to Private Amenity property) have the right to add trees and other landscaping from time to time subject to applicable law. There shall be no express or implied easements for view purposes or for the passage of light and air.

Any golf course owner may, in its discretion, but shall not be obligated to, change the location, size, configuration, landscaping, topography, hydrology, and elevation of the tees, bunkers, fairways, greens, buildings, improvements, landscaping, and water features on such golf course. Any such additions or changes to such golf course may diminish or obstruct the view from the Units.

### 15.5. Notices and Disclaimers as to Community Systems

Each Owner acknowledges that interruptions in cable television and other Community Systems and services will occur from time to time. The Founder or any of its successors or assigns shall not be liable for, and no Community System or service user shall be entitled to refund, rebate, discount, or offset in applicable fees for, any interruption in Community Systems and services, regardless of whether or not such interruption is

caused by reasons within the service provider's control.

### 15.6. Noise from Water, Sewer and Golf Course Operations.

The Association and the Private Amenities may make use of pumps, pipes and lines for pumping and transport of water which may be located within easements for such purpose on Units. The pumping and transport of water within Currahee Club may generate noise which is audible to occupants of Units and other persons in the vicinity of such pumps, pipes, or lines. Likewise, the sewage system serving Currahee Club may require the installation and operation of sewer lift stations at which may generate motor noise when operating that may be audible to occupants of Units and other persons in the vicinity of such lift stations.

In addition, the Private Amenities may make use of various maintenance equipment, such as mowers and trimmers, that generate noise audible to occupants of Units and other persons in the vicinity of the Private Amenities at the time such maintenance is being performed. Such maintenance is likely to be performed early in the morning or in the evening to prevent disruption of the Private Amenities' daily operations.

Neither the owner or operator of the Private Amenities, the Founder, Builders, the Association, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall have any duty to take action to abate noise from any of the foregoing activities, nor shall any of them be liable for any claim of damages or injury to any Person or property arising out of or related to noise resulting from any of the foregoing activities.

### 15.7. Natural Conditions.

(a) Currahee Club contains a number of manmade, natural and environmentally sensitive areas that may serve as habitats for a variety of

## Disclosures and Waivers

native plants and wildlife, including insects, snakes and other reptiles, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and occupant of any Unit, and every person entering Currahee Club (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movement within or through Currahee Club; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within Currahee Club. Neither the Association, the Founder, any Builder, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in Currahee Club, nor shall they have any liability for any injury resulting from the presence, movement or propagation of any plant or wildlife within or through Currahee Club.

(b) The natural areas described in subsection (a) above may also contain creeks, ponds, or intermittent pools of water, muddy areas, and underbrush, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Owner or occupant of a Unit shall enter upon, or permit their guests or any other person acting on their behalf to enter upon, or disturb such areas in any way without the Association's or the Founder's prior approval.

### 15.8. Conservation Areas

Currahee Club contains wetland, floodplain, and woodland conservation areas, many of which are adjacent to and abut Units and other property within the development. These areas have been specifically set aside by Founder with the concurrence and approval of various local, state and Federal regulatory agencies for their preservation, management, and protection. Conservation easements either have been or may be placed on these areas with the intent and purpose of setting aside these areas in perpetuity for their preserva-

tion and conservation. In the furtherance of that goal, Founder may develop a site mitigation and management plan which may incorporate any terms and conditions which the regulatory agencies may have established for these conservation areas. Any costs associated with such mitigation and management plan shall be treated as an Association Common Expense.

## NOTES AND THOUGHTS

## Chapter 16

### Rights of Lenders

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*To enhance each Owner's ability to obtain financing for the purchase of his or her Unit, this Chapter sets forth various provisions for the benefit of lenders who make mortgage loans and for the benefit of those agencies which guarantee and insure mortgage loans made by institutional lenders.*

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in Currahee Club.

#### 16.1. Notices of Action

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

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

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days.

#### 16.2. No Priority

No provision of this Charter or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or con-

demnation awards for losses to or a taking of the Common Area.

#### 16.3. 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 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

#### 16.4. 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 Unit.

### NOTES AND THOUGHTS

## **PART FIVE: COMMUNITY DEVELOPMENT**

*The rung of a ladder was never meant to rest upon, but only to hold a man's foot long enough to enable him to put the other somewhat higher.*

*Thomas Henry Huxley*





## Chapter 17

### Expansion of the Community

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*Due to the need to pace development to the needs of the Community and demand for Units or Common Areas, the initial property submitted to the Charter may be expanded by the Founder or the Association.*

#### 17.1. Expansion by Founder

From time to time, the Founder may submit to the terms of this Charter all or any portion of the property described in Exhibit "B" by recording a Supplement describing the additional property to be submitted. The Founder may record such a Supplement without the consent of any Person except the owner of such property, if not the Founder.

The Founder's right to expand Currahee Club under this Section expires when all property described in Exhibit "B" has been submitted to this Charter or 40 years after this Charter is recorded, whichever is earlier. Until then, the Founder may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be described in a recorded instrument executed by the Founder.

Nothing in this Charter shall require the Founder or any successor to submit additional property to this Charter or to develop any of the property described in Exhibit "B" in any manner whatsoever.

#### 17.2. Expansion by the Association

The Association also may submit additional property to this Charter by recording a Supplement describing the additional property. Any Supplement which the Association records must be approved by Voting Delegates representing more than 50% of the total votes in the Association at a meeting duly called for such purpose and by the owner of the property to be submitted. In addition, during the Development and Sale Pe-

riod, the Founder's consent is required. The Association's President and Secretary, the owner of the property, and the Founder, if the Founder's consent is required, shall sign the Supplement.

#### 17.3. Additional Covenants and Easements

Any Supplement that the Founder records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area or Specific Assessments levied against such Unit. Such provisions may be included in a Supplement submitting new property to this Charter or may be set forth in a separate Supplement applicable to property previously submitted to this Charter. If someone other than the Founder owns the property, then the Supplement must be signed by such owner evidencing such owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Charter as it applies to the property described in the Supplement, to reflect the different character and intended use of such property.

#### 17.4. Effect of Filing Supplement

A Supplement shall be effective upon recording unless otherwise specified in the Supplement. On the effective date of the Supplement, any additional property made subject to this Charter shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Charter.

## Chapter 18

### Additional Rights Reserved to the Founder

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*This Chapter reserves various rights to the Founder to facilitate the Founder's development and sale of property in the Community, to enable the Founder to respond to Owners' concerns, and to protect various property rights and other interests of the Founder.*

#### 18.1. Withdrawal of Property

During the Development and Sale Period, the Founder may amend this Charter to remove any unimproved portion of Currahee Club from the coverage of this Charter, provided such withdrawal does not reduce the total number of Units then subject to the Charter by more than 10%. "Unimproved" means that no permanent structure has yet been completed on the property. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Founder. If the property is Common Area, the Association shall consent to such withdrawal.

#### 18.2. Marketing and Sales Activities

Notwithstanding anything in the Governance Documents to the contrary, the Founder and its designees or assigns may construct, use, and maintain upon portions of the Common Area and other property they own, such facilities and activities as, in the Founder's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Units. Such permitted facilities and activities shall include business offices, sales offices, holding or sponsoring special events, and extending short term stay accommodations to individuals or groups in Units owned by or under the control of Founder and any Unit owned by Founder's designees and assigns. In addition, if reasonably required, convenient, or incidental to construction or sales activities, the Founder and its employees, agents, and designees

may park vehicles in designated areas, including within courtyards enclosed by building frontages or in parking courts. The rights of any Founder designee or assign under this Section are subject to the Founder's approval.

#### 18.3. Right to Develop

The Founder and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area and to the Exhibit "B" property as it deems appropriate.

In addition, during the Development and Sale Period, the Founder may replat property that it owns and convert Units it owns into Common Area.

#### 18.4. Right to Approve Changes in Currahee Club Standards

During the Development and Sale Period, no amendment to or modification of any Rules or Design Guidelines shall be effective without prior notice to and the written approval of the Founder.

#### 18.5. Exclusive Rights to Use Name of Development

No Person shall use the name "Currahee Club" or any derivative of such name or in any logo or depiction associated with Currahee Club in any printed or promotional material without the Founder's prior written consent. However, Owners may use the name "Currahee Club" in printed or promotional matter where such term is used solely to specify that particular property is

## **Additional Rights Reserved to Founder**


located within Currahee Club, and the Association shall be entitled to use the word "Currahee Club" in its name.

### **18.6. Community Systems**

The Founder reserves for itself, and its successors and assigns, a perpetual right and easement to install and operate within Currahee Club such systems as the Founder, in its discretion, deems appropriate to service the buildings and the structures within any Unit or other portion of the Community. Such right shall include, without limitation, the Founder's right to select and contract with companies licensed to provide telecommunications, cable television, and other services in the region. The Founder also has the right to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Notwithstanding the above, there is no guarantee or representation that any particular system will be made available.

### **18.7. Easement to Inspect and Right to Correct**



The Founder, or someone it may designate, may enter any Owner's property to inspect and correct improvements on the Unit. To do so, the Founder must give the Owner of the Unit prior notice, and if entering a dwelling or other enclosed structure on the Unit is necessary, the Owner's consent is also necessary before the Founder or its designee can enter. However, if there is an emergency, the Founder may enter without the notice or consent.

The Founder reserves for itself and others it may designate the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the property within Currahee Club, including Units, and a perpetual

nonexclusive easement of access throughout Currahee Club to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner, and no entry into an enclosed structure shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage he or she causes. Nothing in this paragraph shall relieve an Owner of the responsibility for the maintenance and repair of his or her Unit.

### **18.8. Right to Notice of Design or Construction Claims**

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Currahee Club in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless the Founder and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

### **18.9. Water Rights.**

The Founder reserves for itself, and grants to affiliates of Founder, and their respective successors, assigns, and designees (including the owner and operator(s) of the golf courses), all rights to surface water and storm water runoff originating within or running through the Community, and each Owner agrees that the Founder and affiliates of Founder shall retain all such rights. No Person other than the Founder, affiliates of Founder, and their respective successors, assigns, or designees (including the owner and operator(s) of the golf courses) shall claim, capture, pump, or collect rainwater, surface water or storm water runoff from any portion of the Community without prior written permission of the Founder or affiliates of Founder to which such rights are reserved. The Founder or affiliates of Founder or their des-

## **Additional Rights Reserved to Founder**

ignees may establish programs for reclamation of storm water runoff and wastewater for appropriate uses within or outside the Community and may require Owners and occupants of Units to participate in such programs to the extent reasonably practical. No Owner or occupant of a Unit shall have any right to be compensated for water claimed or reclaimed from Units.

### **18.10. Right to Transfer or Assign the Founder's Rights**

Any or all of the Founder's special rights and obligations set forth in this Charter or the By-Laws may be transferred in whole or in part to other Persons. However, such a transfer shall not reduce an obligation nor enlarge a right beyond that which Founder has under this Charter or the By-Laws. No such transfer or assignment shall be effective unless it is in a recorded instrument the Founder signs. The foregoing sentence shall not preclude the Founder from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to the Founder in this Charter where the Founder does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless necessary to evidence the Founder's consent to such exercise.

### **18.11. Termination of Rights**

The rights contained in this Chapter shall not terminate until the earlier of (a) the period specified in the particular Section; (b) termination of the Development and Sale Period; or (c) the Founder's recording of a written statement that all sales activity has ceased.

*The very essence of leadership is that you have to have a vision. Theodore Hesburgh*

## **NOTES AND THOUGHTS**

## **PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS**

*There are many ways of going forward, but only one way of standing still.*

*Franklin D. Roosevelt*



## Chapter 19

### Dispute Resolution and Limitation on Litigation

*From time to time, disputes may arise between owners or between an owner and the Association, the Founder or others involved in the Community. This Chapter establishes the commitment of the parties to any such a dispute to work together to resolve the dispute without litigation in order to facilitate the prompt resolution of such disputes in a manner that respects and builds upon the relationships between the parties. It also requires substantial support of the Association's membership before the Association can engage in certain types of litigation that could result in significant legal and emotional costs to the Community.*

#### 19.1. Agreement to Encourage Resolution of Disputes without Litigation

(a) The Founder, the Association and its officers, directors, and committee members, all Persons subject to this Charter (including all Owners and occupants of a Unit), and any Person not otherwise subject to this Charter who agrees to submit to this Chapter (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees that a Claim, as described in Subsection (b), shall be resolved using the alternative dispute resolution procedures set forth in Section 19.2 in lieu of filing suit in any court.

(b) As used in this Chapter, the term "**Claim**" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of Improvements within the Community, other than matters of aesthetic judgment or requiring prior approval by the Reviewer under Chapter 5, which shall not be subject to review and shall not be subject to this Chapter.

(c) The following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 19.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary or permanent restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Charter (relating to creation and maintenance of community standards);

(iii) any suit that does not include the Founder or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents; and

(iv) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 19.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Chapter.

#### 19.2. Dispute Resolution Procedures

(a) **Notice.** The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice





## Dispute Resolution and Limitation on Litigation

diator. If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated ("**Termination of Mediation**").

Within five days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("**Settlement Demand**") to the Respondent and the Respondent shall make a final written settlement offer ("**Settlement Offer**") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

### (d) *Final and Binding Arbitration.*

(i) If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "D" or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

(ii) This Subsection (d) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Georgia. The arbitration award (the "**Award**") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Georgia.

### (e) *Costs.*

(i) Subject to Subsection (e)(ii) below, each Bound Party shall bear its own costs, including attorneys fees, and each Party shall pay an equal share of all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("**Post Mediation Costs**").

(ii) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

(f) *Enforcement.* After resolution of any Claim, if any Party thereafter fails to abide by the terms of such agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to comply again with the procedures set forth in this Section. In such event, the Party taking action to enforce the agreement or Award shall, upon prevailing, be entitled to recover from the non-complying Party (or if more than one non-complying party, from all such Parties in equal proportions) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys fees and court costs.

### 19.3. **Initiation of Litigation by Association**

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Voting Delegates representing at least 75% of the total votes in the Association, except that no such approval shall be required for actions or proceedings:

## Dispute Resolution and Limitation on Litigation

(a) initiated during the Founder Control Period;

(b) initiated to enforce the provisions of this Charter, including collection of assessments and foreclosure of liens;

(c) initiated to challenge *ad valorem* taxation or condemnation proceedings;

(d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

*Problems cannot be solved at the same level of awareness that created them. Albert Einstein*

### NOTES AND THOUGHTS

## Chapter 20

### Changes in the Common Area

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*Various influences and circumstance within and outside the Community may give rise to a need or desire to make changes in the ownership of or rights to use Common Area. This Chapter explains the procedures for dealing with matters such as changing use rights in Common Area or Limited Common Area, partition of the Common Area, and condemnation.*

#### 20.1. Assignment and Reassignment of Limited Common Area

The Board may designate a portion of the Common Area as Limited Common Area, and may reassign Limited Common Area, upon approval of the Board and the vote of Voting Delegates representing at least a majority of the total votes in the Association, including a majority of the votes attributable to Units to which the Limited Common Area is proposed to be assigned or reassigned. As long as the Founder owns any property subject to this Charter or which may become subject to this Charter in accordance with Chapter 17, any such assignment or reassignment shall also require the Founder's written consent.

Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

#### 20.2. Condemnation



A governmental entity such as a town, county, or state has the power to condemn property for its own uses but generally has to pay the value of the property to do so.

If any part of the Common Area is taken by any authority having the power of condemnation or eminent domain, or conveyed by the Association in lieu of and under threat of condemnation with such approval as may be required under Section 20.4, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking, the Founder, during the Development and Sale Period, and Voting Delegates representing at least 75% of the total votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 9.4 regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as proceeds from the sale of Common Area under Section 20.4.

## Changes in the Common Area

### 20.3. Partition



Partition is a legal action in which a party requests to have a portion of one interest in property split off so that the party can possess that portion or interest separately from other parties who have rights in the property.

Except as permitted in this Charter, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real property that may or may not be subject to this Charter, with such approval as may be required under Section 20.4.

### 20.4. Transfer or Dedication of Common Area

The Association may dedicate portions of the Common Area to Stephens County, Georgia, or to any other local, state, or federal governmental or quasi-governmental entity, may subject Common Area to a security interest, or may transfer or convey Common Area as follows:

(a) if Common Area other than Limited Common Area, upon the written direction of Voting Delegates representing at least 75% of the total votes in the Association and the Founder during the Development and Sale Period; or

(b) if Limited Common Area, upon written approval of Owners of at least 75% of the Units to which such Limited Common Area is assigned.

The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines. The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the Owners of Units to which the Limited Common

Area is assigned at the time such sale or mortgage is authorized.

No conveyance or encumbrance of Common Area may deprive any Unit of rights of access or support.

The approval requirements of this section shall not apply to any conveyance of Common Area to the Founder or its designees upon request of the Founder pursuant to Section 9.1, which conveyance shall be accomplished by action of the Board without a vote of the membership.

### 20.5. Additional Covenants and Restrictions

During the Development and Sale Period, no one other than the Founder may record any additional covenants or restrictions affecting any portion of the Community without the Founder's written consent. Thereafter, the Board must consent. Any instrument recorded without the required consent shall be void and of no force and effect.

*Anyone who has never made a mistake has never tried anything new. Albert Einstein*

## NOTES AND THOUGHTS

## Chapter 21

### Amendment of Community Charter

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*As the Community matures and grows, the rules by which it is governed must be flexible enough to adapt to changes in the development plan, as well as changes in the needs and desires of the Community that inevitably will occur. This Chapter sets out procedures by which either the Founder or the Owners as a group may amend this Charter to address such changes.*

#### 21.1. By the Founder

In addition to specific amendment rights granted elsewhere in this Charter, until termination of the Founder Control Period, the Founder may unilaterally amend this Charter for any purpose.

Thereafter, the Founder may unilaterally amend this Charter if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (d) to satisfy the requirements of any local, state, or federal governmental agency. However, any amendment under this paragraph shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, during the Development and Sale Period, the Founder may unilaterally amend this Charter for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners.

#### 21.2. By Owners

Except as otherwise specifically provided above and elsewhere in this Charter, this Charter may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Delegates representing at least 75% of the total votes in the Association, including 75% of the total votes held by Owners other than the Founder. In addition, during the Development and Sale Period, any such amendment shall also require the Founder's written consent.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

#### 21.3. Validity and Effective Date

No amendment may remove, revoke, or modify any right or privilege of the Founder or the Founder Member without the written consent of the Founder or the Founder Member, respectively (or the assignee of such right or privilege). **No amendment may remove, revoke, or modify any right or privilege of RPH-Toccoa without the prior written consent of RPH-Toccoa (or the assignee of such right or privilege).**

If an Owner consents to any amendment to this Charter or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording unless a later effective date is specified in the amendment. Any procedural challenge to



## Amendment of Community Charter

an amendment must be made within three months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Charter.

### 21.4. Exhibits

Exhibits "A," "B," and "D" are incorporated by this reference, and this Chapter shall govern amendment of those exhibits. Exhibit "C" is incorporated by this reference and may be amended under Chapter 7 or pursuant to Sections 21.1 and 21.2. All other exhibits are attached for informational purposes and may be amended as provided in those exhibits or in the provisions of this Charter, which refer to such exhibits.

*Don't ever take a fence down until you know  
why it was put up. Robert Frost*

### NOTES AND THOUGHTS



THIS COMMUNITY CHARTER is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by CURRAHEE CLUB DEVELOPMENT, LLC, a Georgia limited liability company ("Founder"). In witness whereof, the undersigned Founder has executed this Charter the date and year first written above.

**FOUNDER:**                    **CURRAHEE CLUB DEVELOPMENT, LLC**, a Georgia limited liability company

By:     Landology Hartwell, LLC, a Delaware limited liability company, its manager

By:     \_\_\_\_\_  
         William G. Slagle  
         Its Manager

Signed, sealed and delivered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the presence of:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

[AFFIX NOTARY SEAL]

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## EXHIBIT "A"

### Land Initially Submitted

All that certain real property and improvements thereon as the same are depicted and/or described on the Boundary Survey for Phase One Currahee Club, Plats recorded in Plat Book 17, Pages 53-85, Stephens County Deed Records:

All that tract or parcel of land situate, lying and being in the 215 G. M. D. (Big Smith) and 440 G.M.D., Stephens County, Georgia **BEING KNOWN AS PHASE ONE, CURRAHEE CLUB, CONSISTING OF THE RIGHT-OF-WAYS FOR CURRAHEE CLUB DRIVE, TIMBER RIDGE TRAIL, ROCK CREEK TRAIL, WARD'S POND WAY, A PORTION OF CURRAHEE CLUB WAY, COTTAGE LANE, LAKEVIEW ROAD, A PORTION OF EDGEWATER TRAIL, A PORTION OF CURRAHEE CROSSINGS, AND PROPERTY DESIGNATED AS PARCELS C, D, F, Y & Z**, as more particularly described on a Boundary Survey for Phase One Currahee Club prepared by J. Dennis Billew, Georgia Registered Land Surveyor No. 2195, dated February 19, 2003, last revised May 8, 2003 the description as contained therein being incorporated herein by reference and being more particularly described as follows:

**BEGINNING** at the Point of Beginning (POB) which is the intersection of the miter of the West margin of Oak Valley Road with the South margin of Holly Springs Road; thence from the POB running along the South and Southwest right-of-way of Currahee Club Drive, with the arc of a circular curve having a radius of 340.00 feet, an arc distance of 98.09 feet and a chord bearing of North 71 degrees 13 minutes 55 seconds West 97.75 feet; thence with the arc of a circular curve having a radius of 100.00 feet, an arc distance of 30.44 feet and a chord bearing of North 71 degrees 41 minutes 13 seconds West 30.32 feet to a point; thence North 80 degrees 24 minutes 26 seconds West 21.73 feet; thence with the arc of a circular curve having a radius of 117.00 feet, an arc distance of 83.52 feet and a chord bearing of North 59 degrees 57 minutes 22 seconds West 81.76 feet; thence North 39 degrees 30 minutes 17 seconds West 55.85 feet; thence with the arc of a circular curve having a radius of 130.00 feet, an arc distance of 100.14 feet and a chord bearing of North 61 degrees 34 minutes 21 seconds West 97.68 feet; thence North 83 degrees 38 minutes 24 seconds West 65.89 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 212.16 feet and a chord bearing of North 47 degrees 53 minutes 14 seconds West 198.66 feet; thence North 12 degrees 08 minutes 04 seconds West 108.79 feet; thence with the arc of a circular curve having a radius of 280.00 feet, an arc distance of 92.62 feet and a chord bearing of North 21 degrees 36 minutes 37 seconds West 92.19 feet; thence North 31 degrees 05 minutes 11 seconds West 100.14 feet; thence with the arc of a circular curve having a radius of 280.00 feet, an arc distance of 49.73 feet and a chord bearing of North 36 degrees 10 minutes 26 seconds West 49.66 feet; thence North 41 degrees 15 minutes 41 seconds West 61.58 feet; thence North 41 degrees 15 minutes 41 seconds West 285.40 feet; thence with the arc of a circular curve having a radius of 280.00 feet, an arc distance of 478.85 feet and a chord bearing of South 89 degrees 44 minutes 44 seconds West 422.59 feet; thence South 40 degrees 45 minutes 09 seconds West 350.29 feet; thence with the arc of a circular curve having a radius of 970.00 feet, an arc distance of 56.53 feet and a chord bearing of South 39 degrees 04 min-

utes 59 seconds West 56.52 feet; thence South 37 degrees 24 minutes 48 seconds West 216.13 feet; thence with the arc of a circular curve having a radius of 430.00 feet, an arc distance of 46.19 feet and a chord bearing of South 40 degrees 29 minutes 27 seconds West 46.17 feet; thence with the arc of a circular curve having a radius of 10.00 feet, an arc distance of 14.80 feet and a chord bearing of South 01 degree 10 minutes 34 seconds West 13.48 feet to the point of intersection with the Northeast right-of-way of Rock Creek Trail; thence running along the Northeast right-of-way of Rock Creek Trail South 41 degrees 12 minutes 57 seconds East 114.80 feet; thence with the arc of a circular curve having a radius of 370.00 feet, an arc distance of 69.51 feet and a chord bearing of South 46 degrees 35 minutes 52 seconds East 69.41 feet to a point adjacent to Lot 1, Parcel Z; thence North 22 degrees 25 minutes 58 seconds East 137.40 feet; thence South 62 degrees 51 minutes 13 seconds East 120.00 feet; thence South 84 degrees 27 minutes 14 seconds East 220.32 feet; thence South 61 degrees 12 minutes 31 seconds East 154.07 feet; thence South 36 degrees 29 minutes 28 seconds East 80.93 feet; thence North 44 degrees 49 minutes 31 seconds East 127.48 feet; thence South 76 degrees 28 minutes 25 seconds East 33.58 feet; thence with the arc of a circular curve having a radius of 45.00 feet, an arc distance of 43.09 feet and a chord bearing of North 76 degrees 05 minutes 34 seconds East 41.46 feet; thence North 48 degrees 39 minutes 33 seconds East 62.93 feet; thence South 37 degrees 20 minutes 39 seconds East 62.45 feet; thence South 05 degrees 25 minutes 12 seconds West 81.13 feet to a point at the end of the cul-de-sac at the end of Rock Creek Trail; thence running along Rock Creek Trail with the arc of a circular curve having a radius of 50.00 feet, an arc distance of 80.27 feet and a chord bearing of South 45 degrees 59 minutes 25 seconds East 71.92 feet; thence South 00 degree 00 minute 00 second East 17.43 feet; thence with the arc of a circular curve having a radius of 270.00 feet, an arc distance of 95.80 feet and a chord bearing of South 10 degrees 09 minutes 52 seconds East 95.30 feet; thence South 20 degrees 19 minutes 44 seconds East 82.35 feet; thence with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 90.49 feet and a chord bearing of South 09 degrees 03 minutes 27 seconds East 89.91 feet; thence South 02 degrees 12 minutes 49 seconds West 29.55 feet; thence with the arc of a circular curve having a radius of 130.00 feet, an arc distance of 119.61 feet and a chord bearing of South 28 degrees 34 minutes 16 seconds West 115.43 feet; thence South 54 degrees 55 minutes 42 seconds West 3.37 feet; thence with the arc of a circular curve having a radius of 90.00 feet, an arc distance of 31.24 feet and a chord bearing of South 64 degrees 52 minutes 26 seconds West 31.09 feet; thence with the arc of a circular curve having a radius of 90.00 feet, an arc distance of 99.35 feet and a chord bearing of North 73 degrees 33 minutes 22 seconds West 94.38 feet; thence North 41 degrees 55 minutes 53 seconds West 82.66 feet; thence with the arc of a circular curve having a radius of 320.00 feet, an arc distance of 78.68 feet and a chord bearing of North 48 degrees 58 minutes 30 seconds West 78.48 feet; thence North 56 degrees 01 minute 07 seconds West 227.88 feet; thence with the arc of a circular curve having a radius of 205.00 feet, an arc distance of 41.29 feet and a chord bearing of North 50 degrees 14 minutes 55 seconds West 41.22 feet; thence North 44 degrees 28 minutes 42 seconds West 72.88 feet; thence with the arc of a circular curve having a radius of 145.00 feet, an arc distance of 123.69 feet and a chord bearing of North 68 degrees 54 minutes 57 seconds West 119.97 feet; thence South 86 degrees 38 minutes 48 seconds West 23.34 feet; thence with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 41.15 feet and a chord bearing of North 88 degrees 13 minutes 40 seconds West 41.10 feet to a point adjacent to Lot 12, Parcel Z; thence South 00 degree

08 minutes 16 seconds West 53.92 feet; thence South 57 degrees 12 minutes 10 seconds West 726.30 feet; thence North 11 degrees 33 minutes 29 seconds West 132.74 feet; thence North 33 degrees 22 minutes 25 seconds West 66.00 feet; thence North 09 degrees 59 minutes 33 seconds West 156.05 feet; thence North 46 degrees 47 minutes 37 seconds East 513.81 feet to a point located on the Southwest right-of-way of Rock Creek Trail; thence running along the Southwest right-of-way of Rock Creek Trail North 41 degrees 12 minutes 57 seconds West 27.37 feet to the point of intersection with the South right-of-way of Currahee Club Drive; thence running along the South and Southwest right-of-way of Currahee Club Drive with the arc of a circular curve having a radius of 10.00 feet, an arc distance of 14.80 feet and a chord bearing of North 83 degrees 36 minutes 29 seconds West 13.48 feet; thence with the arc of a circular curve having a radius of 430.00 feet, an arc distance of 0.90 foot and a chord bearing of South 54 degrees 03 minutes 36 seconds West 0.90 foot; thence South 54 degrees 07 minutes 12 seconds West 121.67 feet; thence with the arc of a circular curve having a radius of 330.00 feet, an arc distance of 114.07 feet and a chord bearing of South 64 degrees 01 minutes 23 seconds West 113.51 feet; thence South 73 degrees 55 minutes 34 seconds West 28.66 feet; thence with the arc of a circular curve having a radius of 180.75 feet, an arc distance of 141.45 feet and a chord bearing of North 83 degrees 32 minutes 49 seconds West 137.87 feet; thence with the arc of a circular curve having a radius of 130.00 feet, an arc distance of 10.00 feet and a chord bearing of North 59 degrees 01 minute 00 second West 10.00 feet; thence with the arc of a circular curve having a radius of 130.00 feet, an arc distance of 95.16 feet and a chord bearing of North 35 degrees 50 minutes 36 seconds West 93.05 feet; thence with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 193.88 feet and a chord bearing of North 09 degrees 16 minutes 30 seconds East 188.19 feet; thence North 33 degrees 25 minutes 27 seconds East 112.44 feet; thence with the arc of a circular curve having a radius of 260.00 feet, an arc distance of 292.65 feet and a chord bearing of North 01 degree 10 minutes 42 seconds East 277.45 feet; thence North 31 degrees 04 minutes 03 seconds West 151.66 feet; thence with the arc of a circular curve having a radius of 430.00 feet, an arc distance of 202.43 feet and a chord bearing of North 17 degrees 34 minutes 51 seconds West 200.57 feet; thence North 04 degrees 05 minutes 40 seconds West 73.58 feet; thence with the arc of a circular curve having a radius of 370.00 feet, an arc distance of 224.10 feet and a chord bearing of North 21 degrees 26 minutes 44 seconds West 220.69 feet; thence North 38 degrees 47 minutes 49 seconds West 83.04 feet; thence with the arc of a circular curve having a radius of 280.00 feet, an arc distance of 281.55 feet and a chord bearing of North 09 degrees 59 minutes 27 seconds West 269.83 feet; thence North 18 degrees 48 minutes 54 seconds East 128.99 feet; thence with the arc of a circular curve having a radius of 1030.00 feet, an arc distance of 179.26 feet and a chord bearing of North 23 degrees 48 minutes 03 seconds East 179.03 feet; thence North 28 degrees 47 minutes 12 seconds East 122.49 feet; thence with the arc of a circular curve having a radius of 620.00 feet, an arc distance of 362.39 feet and a chord bearing of North 12 degrees 02 minutes 31 seconds East 357.26 feet; thence North 04 degrees 42 minutes 10 seconds West 13.73 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 40.30 feet and a chord bearing of North 11 degrees 29 minutes 37 seconds West 40.20 feet; thence North 18 degrees 17 minutes 03 seconds West 128.62 feet; thence with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 28.52 feet and a chord bearing of North 14 degrees 43 minutes 56 seconds West 28.50 feet; thence North 11 degrees 10 minutes 48 seconds West 110.44 feet; thence with the



arc of a circular curve having a radius of 245.00 feet, an arc distance of 257.58 feet and a chord bearing of North 41 degrees 17 minutes 57 seconds West 245.88 feet; thence North 71 degrees 25 minutes 07 seconds West 91.55 feet; thence with the arc of a circular curve having a radius of 580.00 feet, an arc distance of 213.65 feet and a chord bearing of North 60 degrees 51 minutes 57 seconds West 212.44 feet; thence North 50 degrees 18 minutes 48 seconds West 221.18 feet; thence with the arc of a circular curve having a radius of 770.00 feet, an arc distance of 187.80 feet and a chord bearing of North 57 degrees 18 minutes 01 second West 187.33 feet; thence North 64 degrees 17 minutes 14 seconds West 194.28 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 14.17 feet and a chord bearing of North 66 degrees 40 minutes 29 seconds West 14.16 feet; thence North 69 degrees 03 minutes 44 seconds West 128.82 feet; thence with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 25.49 feet and a chord bearing of North 65 degrees 53 minutes 15 seconds West 25.48 feet; thence North 62 degrees 42 minutes 46 seconds West 109.11 feet; thence with the arc of a circular curve having a radius of 330.00 feet, an arc distance of 184.79 feet and a chord bearing of North 46 degrees 40 minutes 14 seconds West 182.39 feet; thence North 30 degrees 37 minutes 43 seconds West 103.58 feet to a point adjacent to Lot 13, Parcel F; thence leaving the Southwest right-of-way of Currahee Club Drive South 59 degrees 22 minutes 17 seconds West 98.44 feet; thence North 65 degrees 11 minutes 18 seconds West 267.79 feet; thence North 80 degrees 30 minutes 49 seconds West 89.49 feet; thence South 80 degrees 33 minutes 12 seconds West 154.71 feet; thence South 83 degrees 06 minutes 26 seconds West 272.36 feet; thence North 11 degrees 04 minutes 40 seconds West 86.86 feet; thence South 63 degrees 54 minutes 03 seconds West 207.54 feet to a point located on the Northeast right-of-way of Currahee Club Drive; thence running along the Northeast right-of-way of Currahee Club Drive with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 97.88 feet and a chord bearing of South 13 degrees 54 minutes 25 seconds East 97.15 feet; thence South 01 degree 42 minutes 54 seconds East 31.86 feet; thence with the arc of a circular curve having a radius of 220.00 feet, an arc distance of 108.69 feet and a chord bearing of South 15 degrees 52 minutes 05 seconds East 107.59 feet; thence South 30 degrees 01 minute 16 seconds East 359.76 feet; thence with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 165.28 feet and a chord bearing of South 09 degrees 26 minutes 04 seconds East 161.75 feet; thence South 11 degrees 09 minutes 08 seconds West 13.50 feet; thence with the arc of a circular curve having a radius of 280.00 feet, an arc distance of 236.32 feet and a chord bearing of South 35 degrees 19 minutes 51 seconds West 229.37 feet; thence South 59 degrees 30 minutes 34 seconds West 227.01 feet; thence with the arc of a circular curve having a radius of 305.00 feet, an arc distance of 204.06 feet and a chord bearing of South 78 degrees 40 minutes 35 seconds West 200.28 feet; thence North 82 degrees 09 minutes 23 seconds West 66.55 feet; thence North 07 degrees 50 minutes 37 seconds East 60.00 feet; thence South 82 degrees 09 minutes 23 seconds East 66.55 feet; thence with the arc of a circular curve having a radius of 245.00 feet, an arc distance of 163.92 feet and a chord bearing of North 78 degrees 40 minutes 35 seconds East 160.88 feet; thence North 59 degrees 30 minutes 34 seconds East 227.01 feet; thence with the arc of a circular curve having a radius of 220.00 feet, an arc distance of 185.68 feet and a chord bearing of North 35 degrees 19 minutes 51 seconds East 180.22 feet; thence North 11 degrees 09 minutes 08 seconds East 13.50 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 122.16 feet and a chord bearing of North 09 de-

grees 26 minutes 04 seconds West 119.55 feet; thence North 30 degrees 01 minute 16 seconds West 359.76 feet; thence with the arc of a circular curve having a radius of 280.00 feet, an arc distance of 138.33 feet and a chord bearing of North 15 degrees 52 minutes 05 seconds West 136.93 feet; thence North 01 degree 42 minutes 54 seconds West 31.86 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 72.35 feet and a chord bearing of North 13 degrees 54 minutes 25 seconds West 71.80 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 60.94 feet and a chord bearing of North 36 degrees 22 minutes 05 seconds West 60.61 feet; thence North 46 degrees 38 minutes 13 seconds West 188.93 feet; thence with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 85.31 feet and a chord bearing of North 36 degrees 00 minute 39 seconds West 84.82 feet; thence North 25 degrees 23 minutes 06 seconds West 17.30 feet; thence with the arc of a circular curve having a radius of 130.00 feet, an arc distance of 142.74 feet and a chord bearing of North 06 degrees 04 minutes 15 seconds East 135.68 feet; thence North 37 degrees 31 minutes 36 seconds East 30.82 feet; thence with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 93.93 feet and a chord bearing of North 49 degrees 13 minutes 34 seconds East 93.28 feet; thence North 60 degrees 55 minutes 32 seconds East 85.42 feet; thence with the arc of a circular curve having a radius of 330.00 feet, an arc distance of 178.22 feet and a chord bearing of North 76 degrees 23 minutes 49 seconds East 176.06 feet; thence South 88 degrees 07 minutes 55 seconds East 287.75 feet; thence with the arc of a circular curve having a radius of 10.00 feet, an arc distance of 15.78 feet and a chord bearing of North 46 degrees 40 minutes 28 seconds East 14.19 feet to the point of intersection with the Southwest right-of-way of Currahee Crossings; thence running along the Southwest right-of-way of Currahee Crossings with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 66.55 feet and a chord bearing of North 09 degrees 44 minutes 02 seconds West 66.12 feet; thence North 20 degrees 56 minutes 53 seconds West 104.84 feet; thence North 69 degrees 03 minutes 07 seconds East 60.00 feet to a point adjacent to lot 1, Parcel F; thence North 65 degrees 02 minutes 25 seconds East 165.03 feet; thence South 37 degrees 38 minutes 07 seconds East 127.09 feet; thence South 72 degrees 36 minutes 41 seconds East 125.00 feet; thence South 54 degrees 51 minutes 48 seconds East 172.45 feet; thence South 48 degrees 30 minutes 07 seconds East 786.82 feet; thence South 51 degrees 46 minutes 44 seconds East 687.59 feet; thence South 46 degrees 04 minutes 18 seconds West 155.56 feet to a point located on the Northeast right-of-way of Currahee Club Drive; thence running along the Northeast right-of-way of Currahee Club Drive South 50 degrees 18 minutes 48 seconds East 190.92 feet; thence with the arc of a circular curve having a radius of 520.00 feet, an arc distance of 191.54 feet and a chord bearing of South 60 degrees 51 minutes 57 seconds East 190.46 feet; thence South 71 degrees 25 minutes 07 seconds East 91.55 feet; thence with the arc of a circular curve having a radius of 305.00 feet, an arc distance of 320.66 feet, and a chord bearing of South 41 degrees 17 minutes 57 seconds East 306.10 feet; thence South 11 degrees 10 minutes 48 seconds East 110.44 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 21.08 feet and a chord bearing of South 14 degrees 43 minutes 56 seconds East 21.06 feet; thence South 18 degrees 17 minutes 03 seconds East 106.09 feet; thence with the arc of a circular curve having a radius of 10.00 feet, an arc distance of 14.98 feet and a chord bearing of South 61 degrees 11 minutes 24 seconds East 13.62 feet to the Northeast right-of-way of Lakeview Road; thence North 75 degrees 54 minutes 14 seconds East 43.23 feet; thence with the arc of a circular curve hav-

ing a radius of 580.00 feet, an arc distance of 197.35 feet and a chord bearing of North 85 degrees 39 minutes 05 seconds East 196.40 feet; thence South 84 degrees 36 minutes 03 seconds East 65.94 feet; thence with the arc of a circular curve having a radius of 280.00 feet, an arc distance of 101.96 feet and a chord bearing of South 74 degrees 10 minutes 07 seconds East 101.40 feet; thence South 63 degrees 44 minutes 11 seconds East 350.85 feet; thence with the arc of a circular curve having a radius of 245.00 feet, an arc distance of 258.27 feet and a chord bearing of North 86 degrees 03 minutes 52 seconds East 246.47 feet; thence North 55 degrees 51 minutes 55 seconds East 62.03 feet; thence with the arc of a circular curve having a radius of 320.00 feet, an arc distance of 69.38 feet and a chord bearing of North 49 degrees 39 minutes 14 seconds East 69.25 feet; thence North 43 degrees 26 minutes 32 seconds East 141.44 feet; thence with the arc of a circular curve having a radius of 35.00 feet, an arc distance of 46.84 feet and a chord bearing of North 05 degrees 05 minutes 59 seconds East 43.43 feet; thence with the arc of a circular curve having a radius of 119.00 feet, an arc distance of 72.72 feet and a chord bearing of North 15 degrees 44 minutes 10 seconds West 71.59 feet; thence North 01 degree 46 minutes 15 seconds East 35.07 feet; thence South 88 degrees 13 minutes 45 seconds East 60.00 feet to a point adjacent to Lot 63, Parcel D; thence North 61 degrees 15 minutes 47 seconds East 182.29 feet; thence North 27 degrees 22 minutes 23 seconds East 181.87 feet; thence South 78 degrees 45 minutes 50 seconds East 196.16 feet; thence North 33 degrees 50 minutes 32 seconds West 93.48 feet; thence North 71 degrees 54 minutes 41 seconds East 135.25 feet; thence North 39 degrees 35 minutes 24 seconds East 268.32 feet; thence North 49 degrees 12 minutes 16 seconds East 145.89 feet; thence North 74 degrees 46 minutes 26 seconds East 430.00 feet; thence South 56 degrees 02 minutes 43 seconds East 288.17 feet; thence South 20 degrees 54 minutes 59 seconds East 322.84 feet; thence South 21 degrees 08 minutes 33 seconds East 199.92 feet; thence South 21 degrees 35 minutes 17 seconds East 100.11 feet; thence South 21 degrees 06 minutes 12 seconds East 353.10 feet; thence South 37 degrees 54 minutes 13 seconds West 290.01 feet; thence South 38 degrees 02 minutes 30 seconds West 301.10 feet; thence North 39 degrees 29 minutes 43 seconds West 180.49 feet; thence North 10 degrees 55 minutes 35 seconds West 128.60 feet; thence South 86 degrees 24 minutes 02 seconds West 179.33 feet; thence South 43 degrees 12 minutes 30 seconds West 373.26 feet; thence North 49 degrees 30 minutes 03 seconds West 442.86 feet; thence South 83 degrees 11 minutes 39 seconds West 667.91 feet; thence North 67 degrees 24 minutes 49 seconds West 122.97 feet; thence North 16 degrees 48 minutes 47 seconds West 144.06 feet to a point on the Southeast right-of-way of Lakeview Road; thence running along the Southeast and Southwest right-of-way of Lakeview Road with the arc of a circular curve having a radius of 305.00 feet, an arc distance of 232.05 feet and a chord bearing of North 85 degrees 31 minutes 57 seconds West 226.49 feet; thence North 63 degrees 44 minutes 11 seconds West 350.85 feet; thence with the arc of a circular curve having a radius of 220.00 feet, an arc distance of 80.11 feet and a chord bearing of North 74 degrees 10 minutes 07 seconds West 79.67 feet; thence North 84 degrees 36 minutes 03 seconds West 65.94 feet; thence with the arc of a circular curve having a radius of 520.00 feet, an arc distance of 176.93 feet and a chord bearing of South 85 degrees 39 minutes 05 seconds West 176.08 feet; thence South 75 degrees 54 minutes 14 seconds West 44.30 feet to the point of intersection of the Southwest right-of-way of Lakeview Road with the Southeast right-of-way of Currahee Club Drive; thence running along the Southeast right-of-way of Currahee Club Drive with the arc of a circular curve having a radius of 10.00 feet, an arc distance of 14.07

feet and a chord bearing of South 35 degrees 36 minutes 02 seconds West 12.94 feet; thence South 04 degrees 42 minutes 10 seconds East 12.88 feet; thence with the arc of a circular curve having a radius of 680.00 feet, an arc distance of 397.46 feet and a chord bearing of South 12 degrees 02 minutes 31 seconds West 391.83 feet; thence South 28 degrees 47 minutes 12 seconds West 122.49 feet; thence with an arc of a circular curve having a radius of 970.00 feet, an arc distance of 168.82 feet and a chord bearing of South 23 degrees 48 minutes 03 seconds West 168.60 feet; thence South 18 degrees 48 minutes 54 seconds West 128.99 feet; thence with the arc of a circular curve having a radius of 220.00 feet, an arc distance of 221.21 feet and a chord bearing of South 09 degrees 59 minutes 27 seconds East 212.01 feet; thence South 38 degrees 47 minutes 49 seconds East 83.04 feet; thence with a circular curve having a radius of 430.00 feet, an arc distance of 75.18 feet and a chord bearing of South 33 degrees 47 minutes 19 seconds East 75.08 feet; thence with a circular curve having a radius of 15.00 feet, an arc distance of 22.04 feet and a chord bearing of South 70 degrees 52 minutes 41 seconds East 20.11 feet to the point of intersection of the Northeast right-of-way of Currahee Club Drive with the Northwest right-of-way of Currahee Club Way; thence along the Northwest right-of-way of Currahee Club Way North 67 degrees 01 minute 26 seconds East 5.31 feet; thence with a circular curve having a radius of 155.00 feet, an arc distance of 54.36 feet and a chord bearing of North 77 degrees 04 minutes 16 seconds East 54.08 feet; thence North 87 degrees 07 minutes 06 seconds East 44.52 feet; thence with a circular curve having a radius of 5.00 feet, an arc distance of 11.88 feet and a chord bearing of North 19 degrees 02 minutes 57 seconds East 9.28 feet; thence North 40 degrees 58 minutes 47 seconds East 40.00 feet; thence with the arc of a circular curve having a radius of 95.00 feet, an arc distance of 21.19 feet and a chord bearing of South 42 degrees 37 minutes 45 seconds East 21.15 feet; thence with the arc of a circular curve having a radius of 15.00 feet, an arc distance of 22.94 feet and a chord bearing of South 80 degrees 02 minutes 29 seconds East 20.77 feet; thence South 33 degrees 51 minutes 23 seconds East 60.00 feet to a point adjacent to Lot 1, Parcel Y; thence with the arc of a circular curve having a radius of 180.00 feet, an arc distance of 109.24 feet and a chord bearing of North 38 degrees 45 minutes 57 seconds East 107.57 feet; thence South 68 degrees 37 minutes 10 seconds East 88.71 feet; thence South 00 degree 22 minutes 38 seconds West 87.65 feet; thence South 25 degrees 16 minutes 24 seconds East 328.79 feet; thence South 19 degrees 26 minutes 02 seconds West 265.68 feet; thence South 48 degrees 20 minutes 24 seconds West 65.57 feet; thence South 75 degrees 36 minutes 30 seconds West 142.88 feet to a point located on the Southeast right-of-way of Currahee Club Drive; thence running along the Southeast right-of-way of Currahee Club Drive with the arc of a circular curve having a radius of 320.00 feet, an arc distance of 212.70 feet and a chord bearing of South 14 degrees 22 minutes 54 seconds West 208.81 feet; thence South 33 degrees 25 minutes 27 seconds West 112.44 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 143.30 feet and a chord bearing of South 09 degrees 16 minutes 30 seconds West 139.10 feet; thence with the arc of a circular curve having a radius of 70.00 feet, an arc distance of 56.67 feet and a chord bearing of South 38 degrees 03 minutes 59 seconds East 55.13 feet; thence with a circular curve having a radius of 120.75 feet, an arc distance of 94.50 feet and a chord bearing of South 83 degrees 31 minutes 22 seconds East 92.11 feet; thence North 73 degrees 55 minutes 34 seconds East 28.60 feet; thence with the arc of a circular curve having a radius of 270.00 feet, an arc distance of 93.33 feet and a chord bearing of North 64 degrees 01 minute 23 seconds East 92.87 feet; thence North 54 degrees 07 minutes 12 sec-



onds East 121.67 feet; thence with the arc of a circular curve having a radius of 370.00 feet, an arc distance of 107.89 feet and a chord bearing of North 45 degrees 46 minutes 00 second East 107.50 feet; thence North 37 degrees 24 minutes 48 seconds East 216.13 feet; thence with the arc of a circular curve having a radius of 1030.00 feet, an arc distance of 60.03 feet and a chord bearing of North 39 degrees 04 minutes 59 seconds East 60.02 feet; thence North 40 degrees 45 minutes 09 seconds East 350.29 feet; thence with the arc of a circular curve having a radius of 340.00 feet, an arc distance of 383.68 feet and a chord bearing of North 73 degrees 04 minutes 49 seconds East 363.64 feet to a point at the intersection of the Southeast right-of-way of Currahee Club Drive with the Northwest right-of-way of Timber Ridge Trail; thence running along the Northwest right-of-way of Timber Ridge Trail with the arc of a circular curve having a radius of 10.00 feet, an arc distance of 13.62 feet and a chord bearing of North 66 degrees 24 minutes 09 seconds East 12.59 feet; thence North 27 degrees 23 minutes 49 seconds East 25.82 feet; thence with the arc of a circular curve having a radius of 230.00 feet, an arc distance of 66.14 feet and a chord bearing of North 35 degrees 38 minutes 05 seconds East 65.91 feet; thence North 43 degrees 52 minutes 21 seconds East 45.81 feet; thence with the arc of a circular curve having a radius of 130.00 feet, an arc distance of 29.99 feet and a chord bearing of North 50 degrees 28 minutes 54 seconds East 29.92 feet to a point adjacent to Lot 12, Parcel C; thence North 10 degrees 44 minutes 30 seconds West 171.08 feet; thence North 38 degrees 26 minutes 17 seconds East 191.15 feet; thence North 19 degrees 16 minutes 07 seconds East 41.77 feet; thence North 08 degrees 08 minutes 03 seconds West 32.10 feet; thence North 22 degrees 05 minutes 00 second West 28.64 feet; thence North 25 degrees 16 minutes 16 seconds West 38.91 feet; thence North 07 degrees 07 minutes 43 seconds East 44.59 feet; thence North 38 degrees 39 minutes 46 seconds East 30.07 feet; thence North 33 degrees 53 minutes 32 seconds East 58.57 feet; thence North 20 degrees 33 minutes 57 seconds East 35.61 feet; thence North 24 degrees 34 minutes 21 seconds East 127.00 feet; thence North 78 degrees 57 minutes 54 seconds East 172.02 feet; thence South 65 degrees 18 minutes 30 seconds East 88.25 feet; thence South 77 degrees 44 minutes 05 seconds East 48.99 feet; thence South 51 degrees 07 minutes 48 seconds East 38.90 feet; thence South 82 degrees 55 minutes 12 seconds East 27.97 feet; thence South 45 degrees 30 minutes 20 seconds East 75.93 feet; thence South 32 degrees 29 minutes 17 seconds East 312.93 feet; thence South 51 degrees 55 minutes 53 seconds West 67.63 feet; thence South 50 degrees 36 minutes 50 seconds West 41.25 feet; thence South 37 degrees 46 minutes 38 seconds West 73.99 feet; thence South 36 degrees 58 minutes 16 seconds West 20.72 feet; thence North 71 degrees 12 minutes 51 seconds West 158.47 feet; thence South 18 degrees 47 minutes 09 seconds West 77.23 feet; thence South 33 degrees 30 minutes 19 seconds West 366.11 feet; thence North 56 degrees 29 minutes 41 seconds West 56.72 feet; thence South 35 degrees 55 minutes 00 second West 122.46 feet; thence with the arc of a circular curve having a radius of 270.02 feet, an arc distance of 15.38 feet and a chord bearing of North 53 degrees 28 minutes 26 seconds West 15.38 feet; thence North 51 degrees 50 minutes 32 seconds West 18.67 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 48.73 feet and a chord bearing of North 43 degrees 37 minutes 49 seconds West 48.56 feet; thence North 35 degrees 25 minutes 06 seconds West 50.49 feet; thence with the arc of a circular curve having a radius of 280.00 feet, an arc distance of 21.16 feet and a chord bearing of North 37 degrees 35 minutes 00 second West 21.15 feet; thence with the arc of a circular curve having a radius of 10.00 feet, an arc distance of 16.13 feet and a chord bearing of North 06 degrees 27 minutes 01

second East 14.43 feet to a point located on the Southeast right-of-way of Timber Ridge Trail; thence running along the Southeast right-of-way of Timber Ridge Trail with the arc of a circular curve having a radius of 70.00 feet, an arc distance of 10.72 feet and a chord bearing of South 48 degrees 15 minutes 39 seconds West 10.71 feet; thence South 43 degrees 52 minutes 21 seconds West 45.81 feet; thence with the arc of a circular curve having a radius of 170.00 feet, an arc distance of 48.88 feet and a chord bearing of South 35 degrees 38 minutes 05 seconds West 48.72 feet; thence South 27 degrees 23 minutes 49 seconds West 18.26 feet; thence with the arc of a circular curve having a radius of 10.00 feet, an arc distance of 15.50 feet and a chord bearing of South 17 degrees 00 minute 20 seconds East 13.99 feet to a point at the intersection of the Southeast right-of-way of Timber Ridge Trail with the Northeast right-of-way of Currahee Club Drive; thence running along the Northeast right-of-way of Currahee Club Drive with the arc of a circular curve having a radius of 340.00 feet, an arc distance of 119.55 feet and a chord bearing of South 51 degrees 20 minutes 05 seconds East 118.94 feet; thence South 41 degrees 15 minutes 41 seconds East 293.38 feet; thence with the arc of a circular curve having a radius of 175.00 feet, an arc distance of 94.18 feet and a chord bearing of South 56 degrees 40 minutes 43 seconds East 93.05 feet; thence South 72 degrees 05 minutes 45 seconds East 159.58 feet; thence with an arc of a circular curve having a radius of 220.00 feet, an arc distance of 52.67 feet and a chord bearing of South 65 degrees 14 minutes 15 seconds East 52.54 feet; thence South 58 degrees 22 minutes 46 seconds East 23.51 feet; thence with the arc of a circular curve having a radius of 220.00 feet, an arc distance of 31.26 feet and a chord bearing of South 54 degrees 18 minutes 30 seconds East 31.24 feet; thence with the arc of a circular curve having a radius of 120.00 feet, an arc distance of 109.21 feet and a chord bearing of South 24 degrees 09 minutes 52 seconds East 105.48 feet; thence South 01 degree 54 minutes 31 seconds West 42.73 feet; thence with the arc of a circular curve having a radius of 80.00 feet, an arc distance of 56.80 feet and a chord bearing of South 18 degrees 25 minutes 48 seconds East 55.61 feet; thence South 38 degrees 46 minutes 08 seconds East 20.26 feet; thence with the arc of a circular curve having a radius of 80.00 feet, an arc distance of 13.08 feet and a chord bearing of South 43 degrees 27 minutes 12 seconds East 13.07 feet; thence South 48 degrees 08 minutes 16 seconds East 29.83 feet; thence with the arc of a circular curve having a radius of 70.00 feet, an arc distance of 47.71 feet and a chord bearing of South 28 degrees 36 minutes 46 seconds East 46.79 feet; thence South 09 degrees 05 minutes 16 seconds East 19.20 feet; thence with the arc or a circular curve having a radius of 80.00 feet, an arc distance of 56.53 feet and a chord bearing of South 29 degrees 19 minutes 56 seconds East 55.36 feet; thence South 49 degrees 34 minutes 35 seconds East 63.66 feet; thence with the arc of a circular curve having a radius of 266.00 feet, an arc distance of 39.85 feet and a chord bearing of South 45 degrees 17 minutes 06 seconds East 39.81 feet; thence with the arc of a circular curve having a radius of 200.00 feet, an arc distance 149.37 feet and a chord bearing of South 62 degrees 23 minutes 21 seconds East 145.92 feet; thence South 06 degrees 16 minutes 17 seconds West 79.05 feet to the Point of Beginning (POB).

TOGETHER WITH:

All such real property previously made subject to the provisions of the Charter by the following Supplements recorded in accordance with Section 17.1:



Supplement to the Community Charter for Currahee Club, recorded in Deed Book 765, Page 111, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia ("**First Supplement**");

Supplement to the Community Charter for Currahee Club (Parcel X – Coneflower Lane Cottages), recorded in Deed Book 873, Page 1, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia ("**Second Supplement**"); and

Supplement to the Community Charter for Currahee Club, recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, *et seq.*, in the Office of the Clerk of the Superior Court of Stephens County, Georgia ("**Third Supplement**").



## **EXHIBIT "B"**

### **Land Subject to Annexation**

Any and all real property lying and being within a five-mile radius of the boundaries of the property described in Exhibit "A" as expanded in accordance with the provisions of Section 17.1.

#### **Note to clerk and title examiners:**

**This Charter is not intended to create an encumbrance on title to the property described in this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplement in accordance with Chapter 17.**



## EXHIBIT "C"

### Initial Rules

The purpose of Rules is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities that fall outside of "the norm." In fact, it is expressly intended that the Reviewer under Chapter 5, and the Board, as appropriate, have discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Unit under one set of circumstances, the same thing may be disapproved for another Unit under a different set of circumstances. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it preclude the Board from taking enforcement action in any appropriate circumstances.

The following shall apply to all of Currahee Club until such time as they are modified pursuant to the Charter.

1. **General.** Currahee Club shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by the Founder to assist in the sale of property described in Exhibit "A" or "B," offices for any property manager retained by the Association, or business offices for the Founder or the Association) consistent with this Charter and any Supplement.

2. **Restricted Activities.** Unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board, the following activities are prohibited within Currahee Club:

(a) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages or parking areas designated as such in strict compliance with the provisions of Chapter 5 of the Charter; provided, construction, service and delivery vehicles shall be exempt from this provision during normal business hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area, and such vehicles, equipment, and other items may be parked in a driveway for a period as reasonably necessary to allow it to be washed and cleaned, but under no circumstances in either event overnight. Semi-tractors and trucks over one ton capacity are prohibited within the Community except in conjunction with the provision of services to a Unit during normal business hours;

(b) Raising, breeding, or keeping animals except that no more than a combination of a total of two dogs and/or cats and a reasonable number of other usual and common household pets may be permitted in a Unit. However, those pets which are permitted to roam free, or, in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. All pets shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law. Owner shall be responsible for ensuring all waste deposited by their pet is collected from the Unit and the Common Area. No pet food shall be left on the outside portion of a Unit. All "pit bulldog" breeds, including, but not limited to Staffordshire Bull Terriers, Bull Terriers, Pit Terriers, and

American Pit Bull Terriers (as the list may be modified by the Board from time to time) are prohibited within the Community;

(c) Any activity that emits foul or obnoxious odors outside the Unit or creates noise or other conditions that tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity that violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities that tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(k) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(l) On-site storage of fuel, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Chapter 5;

(m) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within or outside Currahee Club or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(n) Conversion of any garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Chapter 5. Garage doors shall remain closed at all times except as needed for active use and under no circumstances may remain open overnight;

(o) Any modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Chapter 5 of the Charter. This shall include, without limitation, sculptures, artwork, or statuettes; basketball goals, and swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-

ground swimming pools; docks, piers, and similar structures; and hedges, walls, dog runs, animal pens, fences of any kind decks; storage sheds; and satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals;

(collectively, "**Permitted Antennas**") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Design Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. The Founder and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Community, should any master system or systems be utilized by the Association and require such exterior apparatus;

(p) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within Currahee Club, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Founder may dump and bury rocks and trees removed from a building site on such building site;

(q) Obstructing or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Founder and the Association shall have such right; provided, the exercise of such right shall not unreasonably interfere with the use of any Unit without the Owner's consent;

(r) Swimming, boating, use of personal flotation devices, or other active use of rivers, lakes, ponds, or other bodies of water within Currahee Club, except that fishing from the shore shall be permitted with appropriate licenses and Founder, its successors and assigns, shall be permitted and shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas and to draw water from rivers, lakes, ponds, and other bodies of water within Currahee Club for purposes of irrigation and such other purposes as Founder shall deem desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, or other bodies of water within or adjacent to Currahee Club;

(s) Any garage sale, moving sale, rummage sale, or similar activity;

(t) Capturing, trapping, or killing of wildlife within Currahee Club, except in circumstances posing an imminent threat to the safety of persons using Currahee Club; provided, the Founder and the Association, and any of their respective designees, shall have the right, but not the obligation to, capture, trap, and kill wildlife within Currahee Club which pose a threat or a nuisance; and

(u) Operation of motorized vehicles on Roadways, pathways or trails maintained by the Association by any individual not licensed to operate motor vehicles by a governmental agency, except that electric golf carts may be operated on pathways and trails designated for such vehicles in accordance with the rules established by the Association, including, but not limited to, requiring a permit and requiring that such vehicles be operated only by individuals licensed to operate motor vehicles by a governmental agency.

**3. Prohibited Conditions.** The following shall be prohibited at Currahee Club:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Currahee Club;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units; and

(d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation.





## EXHIBIT "D"

### Rules of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's submission of the Claim to arbitration ("**Arbitration Notice**").

2. The Parties shall select arbitrators ("**Party Appointed Arbitrators**") as follows: all the Claimants shall agree upon one Party Appointed Arbitrator, and all the Respondents shall agree upon one Party Appointed Arbitrator. The Party Appointed Arbitrators shall, by agreement, select one neutral arbitrator ("**Neutral**") so that the total arbitration panel ("**Panel**") has three arbitrators. All arbitrators under this Rule 2 shall be selected from the American Arbitration Association or such other entity providing arbitration services in the Stephens County, Georgia or surrounding area within the State of Georgia.

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, any Party may notify the nearest chapter of The Community Associations Institute, for any dispute arising under the Governing Documents, or the American Arbitration Association, or such other independent body providing arbitration services, for any other dispute, which shall appoint one Neutral ("**Appointed Neutral**"), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

4. No person may serve as a Neutral in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral or Appointed Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("**Bias Disclosure**"). If any Party objects to the service of any Neutral or Appointed Neutral after receipt of that Neutral's Bias Disclosure, such Neutral or Appointed Neutral shall be replaced in the same manner in which that Neutral or Appointed Neutral was selected.

5. The Appointed Neutral or Neutral, as the case may be ("**Arbitrator**") shall fix the date, time and place for the hearing. The place of the hearing shall be within the Community unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant's damages accurately.

6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.

8. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Ar-

bitrator may issue such orders as it deems necessary to safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.

9. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue raised during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such professional's assistance shall be determined by the Arbitrator in the Arbitrator's discretion. Such independent professional must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a Bias Disclosure to the Parties. If any Party objects to the service of any professional after receipt of a Bias Disclosure, such professional shall be replaced by another independent licensed professional selected by the Arbitrator.

10. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; provided, however, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

11. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

12. There will be no post hearing briefs.

13. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

14. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

15. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.

**EXHIBIT "E"**

**BY-LAWS**

**OF**

**CURRAHEE CLUB PROPERTY OWNERS ASSOCIATION, INC.**



**CURRAHEE  
CLUB**

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**BY-LAWS**  
**OF**  
**CURRAHEE CLUB PROPERTY OWNERS ASSOCIATION, INC.**

**Chapter 1**

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**Name, Principal Office, and Definitions**

**1.1. Name.**

The name of the corporation is Currahee Club Property Owners Association, Inc. (the "**Association**").

**1.2. Principal Office.**

The Association's principal office shall be located in Stephens County, Georgia. The Association may have such other offices as the Board may determine or as the Association's affairs require.

**1.3. Definitions.**

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that certain recorded Community Charter for Currahee Club, as it may be amended (the "**Community Charter**"). The term "**majority**," as used in these By-Laws, means those votes, Owners, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

## Chapter 2

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### Membership: Meetings, Quorum, Voting, Proxies

#### 2.1. Membership.

The Association shall have two classes of membership, Owner and Founder members, as more fully set forth in the Community Charter. Provisions of the Community Charter pertaining to membership are incorporated by this reference.

#### 2.2. Place of Meetings.

The Association shall hold meetings at the Association's principal office or at such other suitable place the Board may designate.

#### 2.3. Association Meetings.

(a) **General.** Association meetings shall be of the Voting Delegates unless the Board otherwise specifies or Georgia law otherwise requires; provided, until Voting Delegates are selected, meetings shall be of the Members and references in these By-Laws to Voting Delegates shall be deemed to be references to the Members. The first Association meeting, whether a regular or special meeting, shall be held within one year after the Association's incorporation.

(b) **Annual Meetings.** The Board shall schedule regular annual meetings to occur within 90 days before or after the close of the Association's fiscal year, on such date and at such time and place as the Board shall determine.

(c) **Special Meetings.** The President may call special meetings. In addition, the President or the Secretary shall call a special meeting if so directed by Board resolution or upon a written petition of Voting Delegates representing at least 40% of the total votes in the Association sign.

#### 2.4. Notice of Meetings.

The President, the Secretary, or the officers or other persons calling a meeting of the Voting Delegates shall deliver or cause to be delivered to each Voting Delegate entitled to vote at such meeting a written notice stating the place, day, and hour of the meeting. In the case of a special meeting or when otherwise required by statute, the Community Charter, or these By-Laws, the purpose or purposes for which the meeting is called shall also be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

Such notice shall be delivered by such means as permitted under Section 10.5, at least 10 but not more than 50 days before the date of such meeting.

#### 2.5. Waiver of Notice.

Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any Voting Delegate may waive, in writing, notice of any Association meeting, either before or after such meeting. A Voting Delegate's attendance at a meeting shall be deemed a waiver by such Voting Delegate of notice of the time, date, and place thereof, unless the Voting Delegate specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

## 2.6. Adjournment of Meetings.

If any Association meeting cannot be held because a quorum is not present, the Voting Delegates representing a majority of the votes present at such meeting may adjourn the meeting to a time at least five but not more than 30 days from the scheduled date of the original meeting. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If those in attendance at the original meeting do not fix a time and place for reconvening the meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, the Board shall provide notice to the Voting Delegates of the time and place for reconvening the meeting in the manner prescribed for regular meetings.

Voting Delegates present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Voting Delegates to leave less than a quorum, provided at least a majority of the votes required to constitute a quorum must approve any action taken.

## 2.7. Voting.

(a) *Voting Rights.* Members shall have such voting rights as are set forth in the Community Charter, which provisions are specifically incorporated by this reference. Until such time as the Board first calls for election of a Voting Delegate for any Neighborhood, the Owners within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue as to which a Voting Delegate representing the neighborhood would be entitled to vote.

(b) *Election of and Removal of Voting Delegates.* The Owner Members owning Units within each Neighborhood shall elect a Voting Delegate to cast all votes attributable to their Units on all Association matters requiring a

membership vote, except as otherwise specified in the Community Charter or these By-Laws. In addition, each Neighborhood shall elect an alternate Voting Delegate who shall be responsible for casting such votes in the absence of the Voting Delegate.

The first election of a Voting Delegate and alternate Voting Delegate from each Neighborhood shall occur at least 30 days prior to any Association meeting at which the Voting Delegate from such Neighborhood will be entitled to vote. Thereafter, the Board shall call for an election of Voting Delegates and alternates on an annual basis.

Voting Delegate elections shall be by ballots cast by mail, computer, or at a meeting of the Owner Members within such Neighborhood, as the Board determines. Upon written petition signed by Owner Members holding at least 20% of the votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. Candidates for election as Voting Delegates may be nominated by the Board, a nominating committee the Board may appoint, or from the floor at any meeting at which such election is to be held. In addition or in the alternative, any Person may submit his or her name for consideration.

The presence, in person or by proxy, or the filing of ballots of Owner Members representing at least 20% of the total votes attributable to Units in the Neighborhood shall constitute a quorum for any Neighborhood meeting or election. In the event of a failure to obtain a quorum or vacancy in such positions for any Neighborhood, the Board may appoint a Voting Delegates or alternate Voting Delegate to represent such Neighborhood until a successor is elected.

Subject to the above quorum requirement, in any election of Voting Delegates the candidate who receives the greatest number of votes shall be elected as the Voting Delegate and the candidate receiving the next greatest number of votes

shall be elected as the alternate Voting Delegate. In the event of a tie vote among the leading candidates, the Voting Delegate shall be determined by drawing names from a hat, with the first person drawn being the Voting Delegate and the second being the alternate Voting Delegate. The Voting Delegate and the alternate Voting Delegate shall serve a term of one year or until their successors are elected, whichever is longer.

Any Voting Delegate may be removed, with or without cause, upon the vote or written petition of Owner Members representing a majority of the total number of Units in the Neighborhood that the Voting Delegate represents.

#### **2.8. Proxies.**

Voting Delegates may not vote by proxy but only in person or through their designated alternates; however, any Voting Delegate who is entitled to cast only the vote(s) for his own Unit(s) pursuant to the Community Charter may cast such vote(s) in person or by proxy until such time as the Board first calls for election of a Voting Delegate to represent the Neighborhood of which the Unit is a part. Likewise, if a Member is entitled personally to cast the vote for his Unit on any matter, he or she may vote in person or by proxy, subject to the limitations of Georgia law and subject to any specific provision to the contrary in the Community Charter or these By-Laws.

Every proxy shall be in writing, shall identify the Unit for which it is given, signed by the Owner or his duly authorized attorney-in-fact, dated, and filed with the Association's Secretary prior to the meeting for which it is to be effective. Unless the proxy specifically provided otherwise, a proxy shall be presumed to cover the entire vote which the Owner giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable and shall automatically cease upon (a) conveyance of any Unit for which it was given, (b) the Secretary's receipt of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person, or (c) 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

#### **2.9. Quorum.**

Except as these By-Laws or the Community Charter otherwise provide, the presence of Voting Delegates representing 30% of the total votes in the Association shall constitute a quorum at all Association meetings and the vote of the Voting Delegates representing a majority of the total eligible votes cast shall constitute the action of the Voting Delegates.

#### **2.10. Conduct of Meetings.**

The President or a Board-approved designee shall preside over all Association meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions adopted and all other transactions occurring at such meetings are kept with the Association's books.

#### **2.11. Action Without a Meeting.**

Any action required or permitted by the Governing Documents or by law to be taken at a meeting of the Members or Voting Delegates may be taken without a meeting, without prior notice, and without a vote. In order for such action to be approved, the minimum number of votes necessary to authorize such action at a meeting as if all Members or Voting Delegates entitled to vote thereon were present at such meeting must sign a written consent specifically authorizing the proposed action. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated, and delivered to the Association. Such consents shall be filed with the Association's minutes and shall have the same

force and effect as a vote of the Members or Voting Delegates at a meeting.



## Chapter 3

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### Board of Directors: Selection, Meetings, Powers

#### A. Composition and Selection.

##### 3.1. Governing Body; Qualifications.

The Board shall govern the Association's affairs. Each director shall have one vote. Except with respect to directors appointed by the Founder, directors shall be Owners or residents. No Owner or resident representing the same Unit may serve on the Board at the same time. A "**resident**" shall be any natural person 18 years of age or older whose principal residence is a Unit within Currahee Club; however, Persons renting or leasing a Unit shall not be classified as residents for the purposes of determining eligibility to serve on the Board.

If an Owner is not an individual, any officer, director, partner, or any trust officer of such Owner shall be eligible to serve as a director unless a written notice to the Association signed by the Owner specifies otherwise. However, no Owner may have more than one such representative on the Board at a time except in the case of directors the Founder appoints.

##### 3.2. Number of Directors.

The Board shall consist of three to seven directors, as provided in Section 3.3.

##### 3.3. Selection of Directors; Term of Office.

(a) **Initial Board.** The initial Board shall consist of the three directors identified in the Articles of Incorporation, who shall serve until their successors are appointed or elected as provided in this Section.

(b) **Directors During Founder Control Period.** Except as otherwise provided in this Subsection, the Founder may appoint, remove, and replace Board members until termination of the Founder Control Period. During such period, the Owners shall be entitled to elect a minority of the total number of directors according to the following schedule (directors elected by the Owners are referred to as "**Owner Directors**"):

(i) Within 60 days after the time that Owners own 30% of the maximum number of Units permitted by the applicable zoning for the property described in the Master Plan or whenever the Founder earlier determines, the President shall call for an election by which the Voting Delegates, as a group, shall be entitled to elect one of the three directors. The remaining directors shall be appointees of the Founder. The Owner Director shall be elected for a term of two years or until the happening of the event described in Subsection (b)(ii) below, whichever is shorter. If such director's term expires prior to the happening of the event described in Subsection (b)(ii), a successor shall be elected for a like term.

(ii) Within 60 days after the time that Owners own 50% of the maximum number of Units permitted by the applicable zoning for the property described in the Master Plan or whenever the Founder earlier determines, the Board shall be increased to five directors and the President shall call for an election by which the Voting Delegates, as a group, shall be entitled to elect two of the five directors, who shall be directed at large. The Founder shall appoint the remaining three directors. The Owner Directors shall be elected for a term of two years or until



the happening of the event described in Subsection (c)(i) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in Subsection (c)(i) below, successors shall be elected for a like term.

**(c) *Directors After the Founder Control Period.***

(i) Within 90 days after termination of the Founder Control Period, the Board shall be increased to seven directors and the President shall call for an election by which the Voting Delegates shall be entitled to elect six directors. The Founder shall appoint the remaining director. Three directors shall serve a term of two years and three directors shall serve a term of one year, as such directors determine among themselves.

(ii) Until such time that Founder determines, Founder may appoint one director. At such time, the director appointed by Founder shall resign and the remaining directors shall appoint a director to serve until the next annual meeting, at which time the Voting Delegates,

position. Such director shall be elected for a two-year term.

(iii) Upon expiration of the term of office of each Owner Director, the Voting Delegates shall elect a successor to serve a term of two years. Owner Directors shall hold office until their respective successors have been elected. Directors may serve no more than three consecutive two year terms.

Diagram 3.1 illustrates the concept of transition of control of the Board during and after the Founder Control Period.

**3.4. Nomination and Election Procedures.**

(a) ***Nomination of Candidates.*** At least 30 days prior to any election of directors by the Voting Delegates, the Board shall appoint a Nominating Committee consisting of a chairman, who shall be a Board member, and three or more Owners or representatives of Owners. The Nominating Committee shall serve a term of one year or until its successors are appointed. The

<b>COMPOSITION OF BOARD OF DIRECTORS</b>				
<b>Initial Board</b>	<b>30% of Permitted Units Conveyed</b>	<b>50% of Permitted Units Conveyed</b>	<b>90 Days After Termination of Founder Control Period</b>	<b>At such time Founder determines</b>
Founder	Owner	Owner	Owner	Owner
Founder	Founder	Owner	Owner	Owner
Founder	Founder	Founder	Owner	Owner
		Founder	Owner	Owner
		Founder	Owner	Owner
			Owner	Owner
			Founder	Owner

Diagram 3.1

voting at large, shall elect a director to fill such

names of the Nominating Committee members shall be announced in the notice of each election.

In preparation for each election, the Nominating Committee shall meet and make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled by the Voting Delegates at such election. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity that exists within the pool of potential candidates. Nominations shall also be permitted from the floor at the meeting at which any election is held. All candidates shall have a reasonable opportunity to communicate their qualifications to the Owners and to solicit votes.

(b) ***Election Procedures.*** At each election, voting shall be by written ballot. Each Voting Delegate may cast all votes assigned to the Units it represents for each position to be filled from any slate of candidates on which such Voting Delegate is entitled to vote.

In the event of a tie vote on any slate, the Voting Delegates entitled to vote on such slate shall be informed of the tie vote and given the opportunity to discuss the candidates among themselves in an effort to resolve the tie before another vote is taken. If the second vote again results in a tie, then the Board shall call for election of the director(s) from such slate by the Owners represented by such Voting Delegates. Such election shall be held by mail, with ballots to be sent by first class mail to each Owner entitled to vote on such slate within 10 days after the meeting at which the original election was held.

### **3.5. Removal of Directors and Vacancies.**

Any Owner Director may be removed, with or without cause, by the vote of Voting Delegates holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice

prior to any meeting called for that purpose. Upon removal of a director by the Voting Delegates, the Voting Delegates entitled to elect the removed director shall elect a successor for the remainder of the term of such director. Owner Directors may not be removed by Founder.

At any meeting at which a quorum is present, a majority of the directors may remove any Owner Director who has three consecutive unexcused absences from Board meetings, or who is more than 60 days delinquent (or resides in a Unit owned by an Owner who is so delinquent) in the payment of any assessment or other charge due the Association. The Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of an Owner Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Delegates entitled to fill such directorship shall elect a successor for the remainder of the term.

This Section shall not apply to the initial directors identified in the Articles of Incorporation and to directors the Founder appoints. The Founder shall appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Founder.

## **B. Meetings.**

### **3.6. Organizational Meetings.**

The Board shall hold an organizational meeting within 10 days following each annual Association meeting at such time and place as the Board shall fix.

### **3.7. Regular Meetings.**

The Board shall hold regular meetings at such time and place as a majority of the directors shall determine, but the Board shall meet at least four

times during each fiscal year with at least one meeting per quarter.

### **3.8. Special Meetings.**

The Board shall hold special meetings when called by written notice the President, Vice President, or any two directors sign(s).

### **3.9. Notice; Waiver of Notice.**

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Board shall notify each director of meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile or other electronic communication device, with confirmation of transmission. All such notices shall be given at or sent to the director's telephone number, fax number, or sent to the director's address as shown on the Association's records. The Board shall deposit notices sent by first class mail into a United States mailbox at least five business days before the day of the meeting. The Board shall give notices by personal delivery, telephone, or other device at least 72 hours before the time set for the meeting.

(b) The Board shall notify the Members of each Board meeting by either: (i) posting notice of the meeting in a conspicuous place in the Community at least 48 hours in advance of the meeting; (ii) publication of a schedule of the Board meetings in a newspaper, newsletter, on a community intranet or website, or by similar means at least seven days prior to the meeting; or (iii) mailing notice of the meeting to each Member.

(c) Transactions of any Board meeting, however called and noticed or wherever held,

shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

### **3.10. Telephonic Participation in Meetings.**

Members of the Board or any committee the Board designates may participate in a Board or committee meeting by conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section shall constitute presence at such meeting.

### **3.11. Quorum of Board.**

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless Georgia law, these By-Laws, or the Community Charter specifically provide otherwise. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present the Board may transact, without further notice, any business it might have transacted at the original meeting.

### **3.12. Conduct of Meetings.**

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions and all transactions occurring at such meetings are included in the Association's records.

### **3.13. Open Meetings; Executive Session.**

(a) Subject to the provisions of Subsection 3.13(b) and Section 3.14, all Board meetings shall be open to all Owners, but only directors may participate in any discussion or deliberation unless a director requests that attendees be granted permission to speak. In such case, the President may limit the time any such individual may speak.

(b) Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive session, and may exclude persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

### **3.14. Action Without a Formal Meeting.**

Any action to be taken or which may be taken at a Board meeting may be taken without a meeting if the directors sign a written consent, setting forth the action so taken. Such consent shall have the same force and effect as a unanimous vote. The Board shall post a notice of the Board's action in a prominent place within Currahee Club within three business days after obtaining all written consents to an action. Failure to give notice shall not render the action taken invalid.

## **C. Powers and Duties.**

### **3.15. Powers.**

The Board shall have the power to administer the Association's affairs, perform the Association's responsibilities, and exercise the Association's

rights as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done on the Association's behalf all acts and things except those which the Governing Documents or Georgia law require to be done and exercised exclusively by the Voting Delegates or the membership generally.

### **3.16. Duties.**

The Board's duties shall include, without limitation:

(a) preparing and adopting, in accordance with the Community Charter, an annual budget establishing each Owner's share of the Common Expenses and any Service Area Expenses;

(b) levying and collecting such assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;

(d) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on the Association's behalf in a bank depository which it shall approve and using such funds to operate the Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks;

(f) making and amending Rules in accordance with the Community Charter;

(g) opening bank accounts on the Association's behalf and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;

(i) instituting, defending, and settling any action and enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; however, the Association's obligation in this regard shall be conditioned in the manner provided in the Community Charter;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Community Charter, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association;

(l) keeping a detailed accounting of the Association's receipts and expenditures;

(m) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 10.4;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Community; and

(o) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required by Georgia law, the Articles and these By-Laws.

### **3.17. Conflicts of Interest; Code of Ethics.**

Unless otherwise approved by a majority of the other directors, no Owner Director may transact business with the Association or any Association contractor during his or her term as director or within two years after the term expires. A director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the directors relative to his or her performance as a director. A director's failure to make such disclosure shall be grounds for removal by a majority vote of the other Board members.

Notwithstanding the above, directors appointed by the Founder may be employed by or otherwise transact business with the Founder or its affiliate, and the Founder may transact business with the Association or its contractors.

The initial Board shall create and adopt a written "Code of Ethics" applicable to all directors and officers. The Code of Ethics shall incorporate the above standards and other conduct rules it deems appropriate. At a minimum, the Code of Ethics shall require each officer and director to conduct himself or herself in a manner consistent with the Board Standards described in Section 7.1. Each officer and director, as a precondition to service, shall acknowledge and agree, in writing, to abide by the Code of Ethics.



## Chapter 4

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### Transition from Founder Control to Owner Control of Currahee Club

#### 4.1. Purpose.

The time during which Owners assume control and responsibility of the Association is known as the "**Transition Period**." The Transition Period is a process, whereby control of the Board gradually shifts from the Founder to Owners, and the Owners carry out the responsibilities and functions of the Association as set forth in the Community Charter and these By-Laws. During this process, the Owners, drawing from their experience, education, and training in self-governance, begin to perform the duties of the Board which are outlined in the By-Laws without the assistance of the Founder or the Founder-appointed directors.

This Chapter is intended to guide the Founder, Owners, and the Board through the transition process; prepare Owners to take control of the Board; encourage direct dialogue among all parties in order to anticipate and resolve maintenance and operation issues; and to promote community-wide participation and understanding of the transition process.

#### 4.2. Transition Committee.

The Board shall appoint a three to five member "**Transition Committee**" at least six months prior to the termination of the Founder's Control Period. The Transition Committee shall be comprised of a majority of Owner representatives, and, at a minimum, one Founder representative. Within three months from the date of its formation, the Transition Committee shall recommend a terms of transition agreement to the Board.

(a) **Transition Agreement.** The Transition Committee shall include in the transition

agreement (i) a five-year financial plan, or alternatively, a one-year financial plan with five-year rollover projections, an evaluation of the physical portions of Currahee Club, and a recommendation of which areas are in need of service, repair, or replacement; (ii) an agreement as to which parties are responsible for rendering such service, repair, or replacement and a time line for completing such activities; (iii) a list of all existing contracts and an agreement as to which contracts will be continued; (iv) an agreement as to future Founder obligations, if any; and (v) any other issue affecting the operation of the Association or the maintenance of Currahee Club.

The Transition Committee shall work in good faith to develop a transition agreement for execution by the Founder and the Association. Once agreed upon by a majority of Transition Committee members, the transition agreement shall be recommended to the Board for its approval and execution. In the event that a transition agreement is not reached, the Transition Committee shall inform the Board in writing the reasons why it was unable to finalize a Transition Agreement.

The following suggestions are listed to guide the Transition Committee in developing a transition agreement:

(i) inspect all physical structures, recreational areas, and improvements in the Area of Common Responsibility to evaluate their condition and prepare or update the capital improvement plan;

(ii) place all Common Area utility services (electric, water, gas, telephone, cable, internet/intranet) in the Association's name;



(iii) update Association's corporate book, record books, and accounts. A record of all receipts, payments, and expenditures made on the Association's behalf must be maintained;

(iv) evaluate the Association's Governing Documents to ensure that the Association has the necessary power, authority, and infrastructure to operate the Community;

(v) conclude any pending legal, document, or Association matters, such as deeding any remaining Common Area to the Association, addressing all covenant enforcement issues, and taking any assessment collection action;

(vi) review insurance policies to ensure adequate coverage is being maintained;

(vii) review property management agreements to develop recommendations on post-developer management of common area and facilities;

(viii) conduct a financial review of the Association's current budget, assessment rate, reserve accounts, and tax filings and records; and

(ix) review the Association's real and personal property interests, deeds, and warranties.

(b) **Transition Period Education and Training Opportunities.** During the Transition Period, the Transition Committee's vision of transition and strategy for developing a transition agreement should be explained to Owners, and the Owners should be prepared to assume control of the Association. Both objectives may be accomplished by teaching Owners about what transition of control means, what to expect during and after the Transition Period, and how to participate in the process.

During the Transition Period, the Transition Committee shall provide or provide for education and training opportunities for Owner Members, focused on the subject of transition. Educa-

tion or training opportunities shall be held within six months prior to the election during which the Voting Members elect a majority of the Board. Additionally, the Board shall conduct training for the Transition Committee within the first two months of its appointment to assist the Transition Committee in accomplishing its tasks. The Board may retain, as a Common Expense, industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose.

(c) **Transition Period Notices.** Once formed, the Transition Committee shall keep the Founder and the Owners informed of the transition process, including the Transition Committee's agenda, a timeline for creating a transition agreement, and a schedule of transition education, training opportunities, and town hall meetings.

#### 4.3. **Town Hall Meetings.**

The Transition Committee and the Board shall organize and conduct "town hall" meetings during the Transition Period. Such meetings shall be held for the purpose of promoting open communication among the Transition Committee, the Board, and the Owners. In addition, town hall meetings provide a forum where transition-related issues can be discussed and Owners have an opportunity to ask questions in order to better understand the transition process. For the purposes of preparing the town hall meeting agenda, the Transition Committee may solicit transition related questions from Owners prior to such meetings.

## Chapter 5

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### Officers

#### 5.1. Officers.

The Association's officers shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the Board members; other officers may, but need not, be Board members. The Board may appoint such other officers, including one or more Assistant Secretaries and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

#### 5.2. Election and Term of Office.

The Board shall elect the Association's officers at the first Board meeting following each annual meeting of the Voting Delegates, to serve until their successors are elected.

#### 5.3. Removal and Vacancies.

The Board may remove any officer whenever in its judgment the Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

#### 5.4. Powers and Duties.

The Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall have primary responsibility for preparing the budget as provided for in the Community Charter and may delegate all or part of the preparation and notifi-

cation duties to a finance committee, management agent, or both.

#### 5.5. Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

## Chapter 6

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### Committees

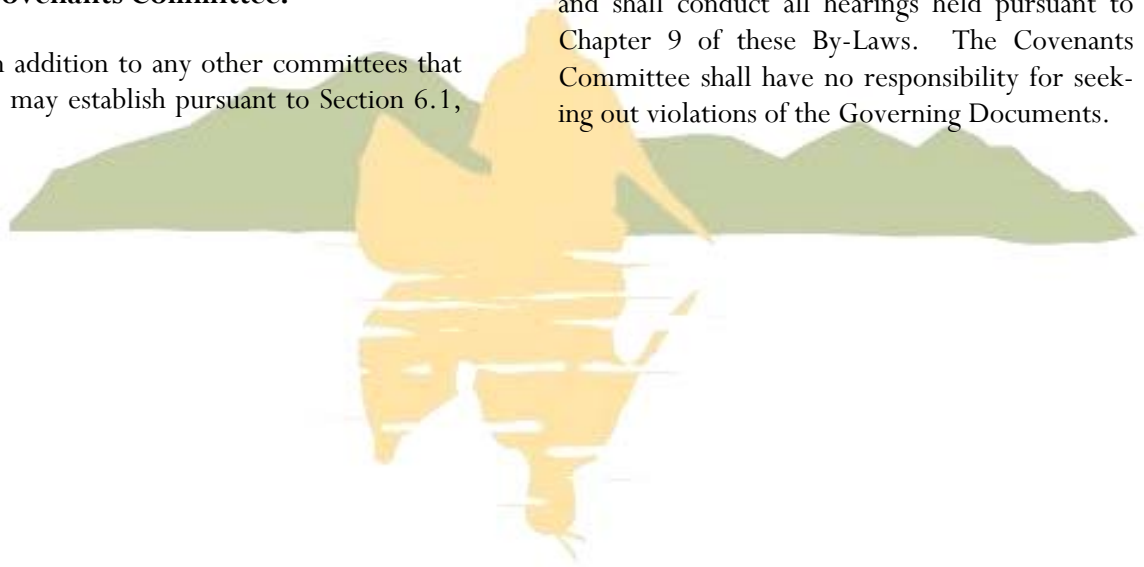
#### 6.1. General.

In addition to the Transition Committee appointed pursuant to Chapter 4, the Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

#### 6.2. Covenants Committee.

In addition to any other committees that the Board may establish pursuant to Section 6.1,

the Board may appoint a Covenants Committee consisting of at least three and no more than seven Owners who shall not be officers, directors, or employees of the Association, or the spouse, parent, sibling, or child of any officer, director, or employee. Acting in accordance with the provisions of the Community Charter, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Chapter 9 of these By-Laws. The Covenants Committee shall have no responsibility for seeking out violations of the Governing Documents.



## Chapter 7

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### Standards of Conduct; Liability and Indemnification

#### 7.1. Standards for Directors and Officers.

The Board shall exercise its powers in a reasonable, fair, nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

In performing their duties, directors and officers shall act as fiduciaries and shall be insulated from liability as provided for directors of corporations under Georgia law and as otherwise provided by the Governing Documents. Directors and officers shall discharge their duties as directors or officers, and as members of any committee to which they are appointed, in a manner that the director or officer believes in good faith to be in the best interest of the corporation and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by others to the extent authorized under Georgia law.

#### 7.2. Liability.

(a) A director or officer shall not be personally liable to the Association, any Owner, the Founder, or any other Person for any action taken or not taken as a director if the director has acted in accordance with Section 7.1.

(b) Pursuant to the business judgment rule, a director also shall not be personally liable for any action taken or not taken as a director if the director:

(i) acts within the expressed or implied scope of the Governing Documents and his or her actions are not *ultra vires*;

(ii) affirmatively undertakes to make decisions which are necessary for the Association's continued and successful operation and, when decisions are made, makes them on an informed basis;

(iii) acts on a disinterested basis, promptly disclosing any real or potential conflict of interests (pecuniary or other), and avoiding participation in decisions and actions on matters as to which he has a conflict of interest (beyond that which all directors have by virtue of their ownership or occupancy of a Unit); and

(iv) acts in a non-fraudulent manner and without reckless indifference to the Association's affairs.

(c) The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such officers or directors may also be a Member).

#### 7.3. Indemnification.

Subject to the limitations of Georgia law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees and expenses, reasonably incurred in connection with

any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that the Association shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

(a) brought by or in the right of the Association, although it may reimburse the individual for reasonable expenses incurred in connection with the proceeding if it is determined, by the court or in the manner provided above, that the individual met the relevant standard of conduct under Georgia law; or

(b) to the extent that the individual is adjudged liable for conduct that constitutes:

(i) appropriation, in violation of his or her duties, of any business opportunity of the Association;

(ii) intentional misconduct or knowing violation of the law;

(iii) an unlawful distribution to members, directors or officers; or

(iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

#### **7.4. Advancement of Expenses.**

In accordance with the procedures and subject to the conditions and limitations set forth in Georgia law, the Board may authorize the Association to advance funds to pay for or reimburse

the reasonable expenses incurred by a present or former officer, director or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Association.

#### **7.5. Board and Officer Training.**

After termination of the Founder Control Period, the Board shall conduct or provide for seminars and continuing educational opportunities designed to educate and inform its officers and directors of their responsibilities as officers and directors. Such programs may include instruction on applicable Georgia corporate and fiduciary law principles, other issues relating to administering community affairs, and upholding and enforcing the Governing Documents. The Board may retain industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected officer and director shall complete a training seminar within the first six months of assuming such position. The seminar may be live, video or audiotape, or in other format.

In a similar manner, the Board may provide or provide for Owner and resident education and training opportunities designed to foster awareness of Currahee Club's governance, operations, and concerns. The Board shall conduct or provide for training and information classes designed to educate Owners of the nomination, election, and voting processes and the duties and responsibilities of directors and officers.

## Chapter 8

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### Management and Accounting

#### 8.1. Compensation of Directors and Officers.

The Association shall not compensate directors and officers for acting as such unless Voting Delegates representing a majority of the total votes in the Association approve such compensation at an Association meeting. The Association may reimburse any director or officer for expenses he or she incurs on the Association's behalf upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director or officer, or any entity with which a director or officer is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director or officer pursuant to a contract or agreement with the Association. However, such director must make known his or her interest to the Board prior to entering into such contract, and a majority of the Board, excluding any interested director, must approve such contract.

#### 8.2. Right of Founder Member to Disapprove Actions.

So long as there is a Founder, the Founder shall have a right to disapprove any action, policy, or program of the Association, the Board and any committee which, in the Founder's sole judgment, would tend to impair rights of the Founder or a Founder Affiliate under the Community Charter or these By-Laws, interfere with development or construction of any portion of Currahee Club, or diminish the level of services the Association provides. The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this Section have been met.

(a) *Notice.* The Association shall give the Founder Member written notice of all meetings and proposed actions approved at Association, Board, or committee meetings (or by written consent in lieu of a meeting). The Association shall give such notice by certified mail, return receipt requested, or by personal delivery at the address the Founder has registered with the Association, which notice complies as to Board meetings with Section 3.9, and which notice shall, except in the case of regular Board meetings pursuant to these By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) *Opportunity to be Heard.* At any such meeting, the Association shall give the Founder the opportunity to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this Section have been met.

The Founder, its representatives, or its agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Founder, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action.



The Founder may use this right to disapprove to block proposed actions but shall not use it to require any action or counteraction of any committee, the Board, or the Association. The Founder shall not use its right to disapprove to reduce the level of services the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

### **8.3. Managing Agent.**

The Board may employ for the Association professional management agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 3.16. The Board may employ the Founder or its affiliate as managing agent or manager.

The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager which might arise between Board meetings.

The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association. The managing agent shall promptly disclose to the Board any financial or other interest which it may have in any firm providing goods or services to the Association.

### **8.4. Accounts and Reports.**

(a) The Board shall follow the following accounting standards unless the Board by resolution specifically determines otherwise:

(i) accounting and controls should conform to generally accepted accounting principles; and

(ii) the Association's cash accounts shall not be commingled with any other accounts.

(b) Commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless the Board specifies otherwise by resolution).

(c) An annual report consisting of at least the following shall be made available for Members' review within 180 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines.

### **8.5. Borrowing.**

The Association shall have the power to borrow money for any legal purpose. However, the Board shall obtain Voting Delegate approval in the same manner provided in the Community Charter for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 20% of the Association's budgeted gross expenses for that fiscal year.

### **8.6. Right to Contract.**

The Association, through its Board, shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Service Areas and other owners or residents associations, within and outside Currahee Club.

### **8.7. Agreements, Contracts, Deeds, Leases, Checks, Etc.**

All Association agreements, contracts, deeds, leases, checks, and other instruments shall be executed by at least two officers or by such other person or persons as the Board may designate by resolution.

## Chapter 9

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### Enforcement Procedures

The Association shall have the power, as provided in the Community Charter, to impose sanctions for any violation of the Governing Documents. To the extent specifically required by the Community Charter, the Board shall comply with the following procedures prior to imposition of sanctions:

#### 9.1. Notice and Response.

The Board or its delegate shall serve the alleged violator with written notice describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, (c) the alleged violator shall have 10 days to present a written request for a hearing before the Covenants Committee; and (d) a statement that the proposed sanction may be imposed as contained in the notice unless a hearing is requested within 10 days of the notice.

The alleged violator shall respond to the notice of the alleged violation in writing within such 10-day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the alleged violation and notifies the Board in writing within such 10-day period the Board may, but shall not be obligated to, waive the sanction. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period.

Prior to the effectiveness of sanctions imposed pursuant to this Chapter, proof of proper

notice shall be placed in the minutes of the Board or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

#### 9.2. Hearing.

If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Covenants Committee. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meetings of the Covenants Committee shall contain a written statement of the results of the hearing and the sanction, if any, to be imposed.

#### 9.3. Appeal.

Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, the violator must deliver a written notice of appeal to the Association's manager, President, or Secretary within 10 days after the hearing date.

## Chapter 10

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### Miscellaneous

#### 10.1. Fiscal Year.

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

#### 10.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law or the Governing Documents.

#### 10.3. Conflicts.

If there are conflicts among the provisions of Georgia law, the Articles of Incorporation, the Community Charter, and these By-Laws, the provisions of Georgia law, the Community Charter, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

#### 10.4. Books and Records.

(a) ***Inspection of Association Documents by Members and Mortgagees.*** The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Governing Documents, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the Association's office or at such other place within Currahee Club as the Board shall designate.

(b) ***Rules for Inspection.*** The Board shall establish rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made; and

(iii) payment of the cost of reproducing documents requested.

(c) ***Inspection by Directors.*** Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties owned or controlled by the Association. A director's right of inspection includes the right to make a copy of relevant documents at the Association's expense.

#### 10.5. Notices.

(a) ***Form of Notice and Method of Delivery.*** Except as otherwise provided in the Community Charter or these By-Laws or by Georgia law, all notices, demands, bills, statements, or other communications under the Community Charter or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has given its prior written authorization to use such method of delivery, by facsimile or, in the event notice is being sent to an Owner, electronic mail with written confirmation of transmission.

(b) ***Delivery Address.*** Notices shall be delivered or sent to the intended recipient as follows:

(i) if to an Owner or Voting Member, at the address, telephone facsimile number, or e-mail address which the Owner or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Owner or Voting Delegate;

(ii) if to the Association, the Board, or a committee of either, at the address, facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association shall designate by notice in writing to the Members pursuant to this Section; or

(iii) if to the Founder, at the Founder's principal address as it appears on the Georgia Secretary of State's records, or at such other address as the Founder shall designate by notice in writing to the Association pursuant to this Section.

(c) **Effective Date.** Notice sent in accordance with Subsections (a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or

(iii) if sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

#### **10.6. Amendment.**

(a) **By Founder Member.** Prior to termination of the Founder Control Period, the Founder may unilaterally amend these By-Laws. Thereafter, the Founder may unilaterally amend

these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal government agency. So long as there is a Founder membership, the Founder may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Members.

(b) **By Members Generally.** Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of the total votes in the Association, and the consent of the Founder member, if such exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) **Validity and Effective Date of Amendments.** Amendments to these By-Laws shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Founder or an

assignee without the written consent of Founder  
or the assignee of such right or privilege.

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