

**DECLARATION OF PROTECTIVE COVENANTS AND
RESTRICTIONS FOR THE _____,
BARTOW COUNTY, GEORGIA**

THE PROTECTIVE COVENANTS AND RESTRICTIONS set forth below are hereby declared as of the ____ day of _____, 2005, by the BARTOW-CARTERSVILLE JOINT DEVELOPMENT AUTHORITY (the “Authority”), a public corporation created and existing under the laws and Constitution of the State of Georgia.

The Authority is the initial owner and developer of an industrial park known as the _____ (“Park”) which is being developed on real property owned by the Authority in Bartow County, Georgia. The Authority believes the proper development the Park attained by setting certain standards for the Park will be to the interest, benefit and advantage of each of the owners of industrial sites within the Park and the Authority believes that the establishment of such standards will assist it to develop and promote a first class industrial park which will serve to attract and retain high quality industry while providing employment growth and economic development within Bartow County. Accordingly, this Declaration includes restrictions, conditions, covenants and certain minimum standards required of all owners and users of the property located within the Park for the term hereof.

Whereas the Authority desires to subject the real property described in Article Two of this Declaration to these protective covenants, restrictions, assessments and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of said property;

NOW, THEREFORE, for and in consideration of the premises and in consideration of the benefits to be derived by the Authority and each and every subsequent owner of any part or all of the Park property, the Authority does hereby

establish, promulgate and declare the following protective covenants, restrictions, easements, assessments and liens (sometimes referred to herein collectively as “Covenants and Restrictions”), to apply to each and every part of all the property which is subjected to this Declaration and for the term hereof shall continue to apply whether or not the same is thereafter held, transferred, sold, conveyed, used, occupied, mortgaged or otherwise encumbered.

Every grantee of any interest in any part of the hereinafter described real property, which is hereby made subject to this Declaration, by acceptance of a deed or other conveyance of such interest, whether or not it shall be so expressed in any such deed or other conveyance, whether or not such deed or conveyance shall be signed by such person and whether or not such a person shall otherwise consent in writing, shall take subject to this Declaration and to the terms and conditions hereof and will be deemed to have assented to said terms and conditions.

ARTICLE ONE

DEFINITIONS

Section 1.01 Definitions.

As used herein, the following words and phrases shall have the respective meanings set forth below unless the context clearly indicates otherwise.

1. *Authority.* The “Authority” shall mean the Bartow-Cartersville Joint Development Authority, its successors and assigns.

2. *Building Site.* “Building Site” shall mean each tract or parcel of real property conveyed by the Authority, or any successor thereof in the title chain to an owner and which is a part of the Park. For the purposes hereof, any adjoining or contiguous property conveyed to an owner of a building site shall be deemed to be part of

the building site owned by said owner. Each building site shall be a minimum of _____ acres except, where land availability and configuration dictate, the Authority in its discretion may sell a smaller tract.

3. *Improvements.* “Improvements” shall mean any and all building site developments, betterments, modifications and construction including, but not limited to, buildings, structures, walks, towers, tanks, patios, driveways, signs, docks, walls, fences, screen, parking areas, drainage and utility conduit, excavations and grading. Routine maintenance is not an improvement.

4. *Development Review Committee.* The “Development Review Committee” or “DAC” shall mean the committee established and perpetuated to consider improvements on the building sites and to possess such other duties and powers as are more fully set forth below.

5. *Design and Development Guidelines.* The “Design and Development Standards and Guidelines” shall mean those guidelines initially established by the Authority as set forth in Exhibit “B” hereto and as may be amended hereafter from time to time by the Authority or, if it so delegates in writing, by the Development Review Committee.

6. *Nuisance.* A “Nuisance” shall include, but not be limited to, any usage of a building site that:

- (a) So annoys, disturbs or affects the owners or occupants of any other building site or other property within the Park or the owners or occupants of property contiguous to the park so as to obstruct or interfere with the reasonable or compatible use of such other building site or property or so as to render usage of the building

site or property dangerous or damaging to persons or property thereon;

- (b) Violates any federal, state, county or municipal law; or
- (c) Violates, in whole or in part, the terms and conditions of these Protective Covenants and Restrictions.

7. *Occupant.* “Occupant” shall mean an entity or person which may or may not also be an owner and is in lawful possession or has the lawful right to use any building site or portion thereof.

8. *Owner.* “Owner” shall mean the record title holder, whether one or more persons or entities, of fee simple title to any building site located within the Park and shall include the owner’s heirs, executors, administrators, successors and assigns but exclude those persons holding title thereto merely as security for the performance of one or more obligations.

9. *Park.* “Park” shall mean the _____ Park, Bartow County, Georgia as described in Article Two and any other property subject to this Declaration by mutual agreement of the owner thereof and the Authority recorded in the records of the Superior Court of Bartow County, Georgia.

10. *Common Areas.* “Common Areas” shall mean entrances, landscaped areas and all unpaved areas within the road right-of-ways not a part of any building site. Maintenance of common areas shall include electrical, landscaping, irrigation, lighting (excluding street lighting) and signage.

ARTICLE TWO

SUBJECT PROPERTY

Section 2.01 PROPERTY HEREBY SUBJECTED TO THIS DECLARATION.

The property which is, by the recording of this Declaration, subject to the covenants, restrictions, easements, assessment and liens hereinafter set forth and which by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, mortgaged or otherwise encumbered by this Declaration is all that tract or parcel of land shown in the plat attached hereto as Exhibit "A", and incorporated herein by reference.

Section 2.02 APPROVAL REQUIRED.

No building or improvement (parking lot, access drives, landscaping, lighting, etc.) shall be erected, constructed, or placed on any parcel in the Park, nor shall any building or improvement be altered or modified, until the plans for such building or improvement or alteration or modification, including the site plan, landscape plan, and building plans and specifications, have been reviewed and approved by the Development Review Committee.

Section 2.03 PLANS.

Plans drawn to appropriate scale shall be submitted to the Authority for review. Three (3) sets of all site plans and all building plans shall be submitted. The Authority shall review plans and specifications for any improvements proposed for construction in the Park. The standards which the Authority shall apply in reviewing said plans and specifications include but are not limited to the following:

1. Site plans shall show:
 - a. Location of structure(s) on owner's lot (dimensional).
 - b. Dimensions on all front, side, and rear yards, access drives, etc.
 - c. A schedule showing:

- (1) Lot area.
 - (2) Total area expressed in square feet of each building and of each floor of each building.
 - (3) Number of parking spaces.
 - (4) Number of employees.
 - (5) Total square feet of impervious surface, including buildings, parking lots, loading areas, sidewalks, etc.
- d. Parking and access drive locations, stall dimensions, curbs, tire stops, loading docks, snow storage areas, etc.
 - e. Size, location and access to and screening of trash receptacles and utility areas.
 - f. Other paved areas and walls.
 - g. Outdoor lighting, including location, direction of beams, and foot candle calculations.
 - h. A landscaping and screening plan showing the locations, common and botanical names, planting size, root condition, and quantity of all plant material. The plan shall also show all ground cover and mulch areas and landscape construction materials.
 - i. Locations and dimensions of all easements.
 - j. Surface detail of all outside areas, such as paving.
 - k. Designation of proposed future expansion areas.
 - l. Drawings showing the proposed design and proposed locations of all signs.

Section 2.04 FINAL SUBMISSION.

After the DRC's initial review and after the Owner has made appropriate revisions to meet the DRC's requirements the Owner shall submit his proposed final plans and specifications to the DRC. The DRC will take action on the final submission within thirty (30) working days of the receipt of the final submission. Final submission shall be in duplicate and shall include:

- (a) Site plans showing:
 - (i) dimensioned locations of each proposed building, drive, paved area, setback, fence, sign, walk and service element;
 - (ii) site grading and drainage of the entire site with 2-foot maximum contours, finished floor elevations, spot grades at building corners, drainage catch areas, driveways, swales, entrances and storm water detention;
 - (iii) final landscaping plan showing types, sizes and locations of all trees and shrubs to be planted, or preserved;
 - (iv) final irrigation system plan showing types, sizes and locations of all components to be installed; and

- (v) proposed locations of temporary structures, construction storage areas, erosion control plans and temporary signs.
- (b) Complete exterior elevations and floor plans of each building or building type at 1/8" = 1' scale minimum.
- (c) Descriptions including samples and/or manufacturer's data of proposed exterior materials, finishes and colors, including those for walls, roofs, windows, doors, paving, fences, signs and exterior lighting fixtures.
- (d) Landscape plans.
- (e) Construction specifications.

Section 2.05 APPROVAL

After making such review, the Authority shall approve, approve subject to conditions or modifications, or disapprove the plans and specifications in writing within thirty (30) days of submission. A denial shall specify the reason or reasons why the request was denied. The Authority's decision shall be final with respect to approval or disapproval of the plans and specifications. The parcel owner seeking approval of their plans may resubmit revised plans to the Authority to address issues which the Authority identified during its review of the plans. The Authority's approval of the plans does not exempt the development from review or approval by any other governmental body or agency empowered to do so under the codes, statues, rules or regulations that may be in effect by these jurisdictions.

Section 2.06 ADDRESSES FOR SUBMISSIONS.

Both initial and final submissions shall be submitted in duplicate to:

Section 2.07 IDENTIFICATION OF SUBMISSIONS.

To insure proper identification, all drawings for both initial and final submissions must include the landscape architect, architect and engineers.

- (a) name, address and phone number of Owner and architect;
- (b) date and purpose of submission; and
- (c) for a re-submission, the nature and date(s) of the revision.

Section 2.08 APPROVAL OF SUBMISSION.

The DRC will act within thirty (30) days after receipt of all required submissions to review both initial and final submissions. Approvals must be in writing and signed by the DRC. One copy of any approved submission will be made a part of the permanent records of the DRC and the other copy will be returned to the Owner.

Written approval of the initial submission for a proposed development must be obtained by the Owner before the final submission on the same project will be considered by the DRC. The final submission should be consistent with the approved initial submission. If the Owner wishes to make major planning or design changes after having received approval of the initial submission, approval of such changes must be obtained prior to the presentation of the final submission to the DRC.

Section 2.09 Construction Changes.

If, the Owner wishes to make changes in the final submission as approved, a request for approval of the changes must be submitted in duplicate to the DRC and approved by the DRC in writing prior to the commencement of Construction on such changes. The request must include a complete description of the proposed changes including working drawings, specifications and any other pertinent data.

Section 2.10 Start of Construction.

Absolutely no Construction of any nature whatsoever may begin until approved by the DRC in writing. All Construction and all use of the property must comply with the Covenants and with the Design Guidelines.

Section 2.11 Compliance with Law.

All final plans for proposed Construction shall be certified by a registered architect or engineer to be in compliance with all applicable federal, state and local

codes, regulations, restrictions or any other stipulations. The DRC shall not be liable to any person under any theory or under any circumstances in connection with the approval or disapproval of the plans, including, without limitation, any liability based on soundness of construction, adequacy of drawings and specifications, or otherwise.

ARTICLE THREE

USAGE OF BUILDING SITES

Section 3.01 PERMITTED USES

The usage of a building site shall be subject to the approval of the Authority. However, all approved uses shall be performed or carried out within one or more buildings that are so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to other building sites or property such as, but not limited to, vibration, sound, electromechanical disturbances, electromagnetic disturbances, radiation, air or water pollution, dust, noxious odors, toxic matter having a potential for exploding or other hazard. Subject to limitations set forth herein and applicable zoning ordinances, the following, although not an all inclusive listing, are generally permitted uses:

- (a) Corporate use which may involve manufacturing, fabricating, processing or assembly of products of equipment;
- (b) Warehousing and distribution;
- (c) Research and development;
- (d) Data Processing; and
- (e) Large scale tenant business office facilities.

ARTICLE FOUR

CONSTRUCTION OF IMPROVEMENT

Section 4.01 APPROVAL OF PLANS REQUIRED.

No improvements shall be constructed, erected, placed, altered, maintained or permitted to remain on any building site by any owner or occupant until final plans and specifications therefor shall have been submitted to and approved in writing by the Development Review Committee (sometimes hereinafter referred to as the “Committee”). Such final plans and specifications shall be submitted in duplicate over the authorize signature of the owner or occupant, or both, of the building site or the authorized agent thereof. The plans and specifications shall in be such form and shall contain such information as may be reasonably required by the Committee as outlined in Exhibit “B”.

Section 4.02 RENOVATION/EXPANSION

All renovations and/or additions must comply with the then current covenants and building standards established by the City for the Oakwood South Industrial Park.

Section 4.03 BASIS FOR APPROVAL

Approval shall be based, among other things, upon adequacy of site dimensions adequacy of structural design, conformity with the Design and Development Standards and Guidelines, harmony of external design with neighboring structures, effect of location and use of proposed improvements upon neighboring lots, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical installations and conformity of the plans and specifications to the purpose and intent of this Declaration. No plans will be approved which do not provide for the underground installation of power, electrical, telephone and other utility lines and the complete visual and landscaped screening of all transformer and terminal equipment. Except as otherwise

provided in this Declaration, the Committee shall have the right to disapprove any plans and specifications submitted hereunder on any reasonable grounds including, but not limited to, the following:

- (a) Failure to comply with any of the restrictions set forth in this Declaration;
- (b) Failure to include information in such plans and specifications as may have been reasonably requested by the Committee;
- (c) Objection to the exterior design or the appearance of materials employed in any proposed structure;
- (d) Objection on the ground of incompatibility of any proposed structure or use with existing structures or uses upon other building sites or other property in the vicinity of the subject property;
- (e) Objection to the location of any proposed structure with reference to other building sites or other property in the vicinity;
- (f) Objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any structure;
- (g) Objection to the number or size of parking spaces or to the design of the parking areas; or
- (h) Any other matter which, in the judgment of the Committee, would render the proposed improvements or use in harmonious with the general development of the Park, the Development and Design Standards and Guidelines which the Authority may promulgate from time to time or with improvements located upon other lots or other property in the vicinity.
- (i) Failure to comply with all local ordinances and development regulations.

Section 4.04 RESULT OF INACTION

If the Committee fails either to approve or disapprove plans and specifications submitted to it for approval within 30 days after the same have been submitted, it shall be conclusively presumed that the Committee has approved said plans and specifications; provided, however, if within the 30 day period, the Committee gives written notice of the fact that more time is reasonably required for the review of such plans and specifications, there shall be no presumption that the same are approved until the expiration of such reasonable period of time as is set forth in the notice.

Section 4.05 APPROVAL

The Committee may approve the plans and specifications as submitted, as altered or as amended or it may grant its approval to the same, subject to specific conditions. Upon approval or conditional approval by the Committee of any plans and specifications, together with any conditions, one copy thereof shall be retained in the permanent records of the Committee and a copy of such approval together with any conditions shall be returned to the applicant submitting the same. Conceptual site plans and preliminary concepts may be considered by the Committee prior to completion of the final design.

Section 4.06 COMMENCEMENT OF WORK

The purchaser of each Building Site from the Authority, by accepting a deed to the Building Site, covenants for itself or himself, his or its heirs, administrators, successors and assigns, and every successor in interest to the Building Site, or any part thereof, that there shall be submitted to the Authority construction plans and specifications in accordance with the requirements of the Development Standards and at the time specified in the Development Standards and that construction of Improvements on the Building Site shall commence not later than the last day of the one (1) year period

following the date of purchase of the Building Site from the Authority and shall thereafter be continuously pursued until completed in accordance with plans and specifications approved by the Authority. For purposes hereof, if the date of purchase is on or before the fifteenth (15th) day of the month in which the closing takes place, that month will be considered the first calendar month of the one (1) year period specified above. Purchases consummated after the fifteenth (15th) day of any calendar month shall be deemed, for purposes hereof, to have been consummated on the first (1st) day of the calendar month immediately following the date of purchase. Upon the failure of a purchaser of a Building Site from the Authority, his or its heirs, successors and assigns, or successors in interest, to enter into a valid and enforceable contract for the construction of Improvements in accordance with plans and specifications approved by the Authority and to commence with plans and specifications approved by the Authority and to commence construction of Improvements, in accordance with construction plans and specifications submitted to and approved by the Authority, prior to the last day of the one (1) year period following the date of purchase of the Building Site from the Authority, title to the Building Site shall immediately revert to the Authority, its successors or assigns, and the Authority shall pay to the Owner of the Building site seventy-five (75%) percent of the purchase price paid to the Authority for the Building Site, without interest, within sixty (60) days of the reversion of title. The remaining twenty-five (25%) percent of the purchase price shall be retained by the Authority. This covenant shall constitute a covenant running with the land and shall be binding upon the purchaser of any Building Site, his or its heirs, executors, administrators, successors and assigns. No provisions of this Section shall be construed as requiring the Authority to develop or improve any Building Site.

Section 4.07 COMPLETION OF WORK

Any improvement commenced pursuant hereto shall be diligently completed in a workmanlike manner and shall be completed within two (2) years from the construction starting date. In the event of strike, fire, national emergency, natural disaster or other supervening force beyond the control of owner or occupant, the Committee may, upon written request made and received prior to the expiration of the period, extend the period of time within which work must be completed. Failure to comply with this section shall constitute a breach of this Declaration and subject the party in breach to the enforcement procedures set forth in Article Nine hereof.

Section 4.08 AUTHORITY AND COMMITTEE NOT LIABLE

The Authority and the Development Review Committee shall not be liable for any damage, loss or prejudice suffered or claimed by any person (including environmental claims) on account of:

- (a) The approval or disapproval of any plans, drawings and specifications, whether or not in any way defective;
- (b) The construction of any improvement or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
- (c) The inadequacy of any approved structure; or
- (d) The development of any lot within the _____ Park.

ARTICLE FIVE

DEVELOPMENT STANDARDS

All matters included in the Design and Development Standards and Guidelines (Exhibit B) shall apply in the development and maintenance of all building sites.

ARTICLE SIX

CONDITION OF BUILDING SITES AND FACILITIES LOCATED THEREON

Section 6.01 GENERAL CONDITION OF BUILDING SITES

The owner or occupant of any building site shall at all times keep it and the buildings, improvements and appurtenances thereon in a safe, clean and wholesome condition and comply, at its own expense, with all applicable governmental, health, fire and safety ordinances, regulations, requirements and directives; and the owner or occupant shall at regular and frequent intervals remove at its own expense any rubbish of any character whatsoever which may accumulate upon such building site. Each building site and all improvements thereon shall at all times be constructed, kept and maintained by the owner or occupant of the building site in first-class condition, repair and appearance. All repairs, alterations, replacements or additions to such improvements shall be at least equal to the original work quality and class. The necessity and adequacy of such repairs shall be measured by the same standard as set forth herein for the original construction and maintenance. Landscaping shall be maintained in a sightly and well-kept condition.

Section 6.02 GROUNDS

The grounds of each building site (whether vacant or occupied) shall be maintained in a neat and attractive condition. Upon the failure of any owner and/or occupant to maintain the grounds of a building site (whether vacant or occupied) in a neat and attractive condition, the Authority may (but shall be under no obligation to) after seven days prior written notice to such owner and occupant (if other than the owner) enter upon the building site and have the grass, weeds or other vegetation cut or trimmed when, and as often as, the same is reasonably necessary in its judgment and may have

dead trees, shrubs and/or other plants and trash removed therefrom and, if appropriate, replaced. The owner of the building site (and when occupied by a non-owner, the occupant) shall be liable to the Authority for the cost of any such cutting, clearing, maintenance or removal determined by the Authority to be necessary and such amount shall also constitute a permanent charge and lien upon such building site enforceable by the Authority through any appropriate proceeding at law or in equity.

Section 6.03 IMPROVEMENTS

Improvements to a building site (whether occupied or vacant) including without limitation buildings, walls, walkways, fences, screens, driveways, parking areas and/or signs shall be cared for and properly maintained by the owner or occupant in a neat and attractive condition. Upon the failure of any owner or occupant to repair and maintain improvements to a building site to the reasonable satisfaction of the Authority, the Authority or its authorized representatives may in its reasonable discretion (but without obligation to do so) after seven days written notice to the owner and to the occupant (if other than the owner) enter upon such building site and perform the necessary repair or maintenance when and as often as the same is necessary in its reasonable judgment. The owner of the building site (and when occupied by a non-owner, the occupant) shall be personally liable to the Authority for the cost of such necessary repair and/or maintenance as was incurred by the Authority and such amounts shall also constitute a permanent charge and lien upon such building site enforceable by the Authority by any appropriate proceeding at law or in equity.

Section 6.04 DELEGATION BY AUTHORITY

The Authority may at anytime delegate and assign in writing to the Development Review Committee all of its rights and powers under this article including the corresponding enforcement provisions hereof.

ARTICLE SEVEN

COMMON AREAS

Section 7.01 MAINTENANCE OF COMMON AREAS

So long as the Authority owns at least 50 percent of the Park with the percentage being measured by a comparison of site area in the Park (excluding areas owned by the Authority which are not suitable for development to one or more building sites), the Authority shall pay all costs of maintaining and operating the common areas and common facilities (including all utilities serving the same. At such time as the Authority no longer owns more than 50 percent of the Park, then the owners (including the Authority as an owner until it has sold all of its building sites) shall be responsible for the cost of maintaining and operating the common areas and facilities with each building site owner to bear its share prorate in proportion to the area of such building site as compared to the total area of all building sites (including such owner. Common areas shall be maintained consistent with the high standards of the Park and the Committee shall oversee and control the maintenance.

ARTICLE EIGHT

DEVELOPMENT REVIEW COMMITTEE

Section 8.01 DEVELOPMENT REVIEW COMMITTEE

The Development Review Committee shall consist of from one to five persons. Initially, each member of the Committee shall serve at the pleasure of the Authority. At

such time as the Authority owns no more than five percent of the area within the Park which is suitable as a building site, then the Development Review Committee shall promptly thereafter call for a meeting of the owners (or their designees) who shall at the meeting and annually thereafter elect by simple majority vote the membership of the Committee which shall from and after the election by owners consist of three members. Owners shall vote based upon the number of acres (rounded to the nearest 1/10 of an acre) owned by them within the Park (e.g., an owner of a 7.34 acre tract will have 7.3 votes). The Development Review Committee may adopt bylaws for its meetings but initially it shall made decisions by majority vote of those members serving at the time.

ARTICLE NINE

ENFORCEMENT

Section 9.01 INSPECTIONS

Each owner and each occupant hereby irrevocably grants to the Authority and the Committee, or their respective authorized representatives, the right to go upon and enter his/its building site and improvement(s) following the giving of reasonable prior notice for the limited purpose of inspection to determine compliance, or lack thereof, with these Protective Covenants and Restrictions.

Section 9.02 REMEDIES FOR VIOLATION

Violation of these Covenants and Restrictions or of the Design and Development Standards and Guidelines shall be corrected by the owner/occupant within a reasonable time generally not to exceed seven days after written notice of any such violation by the Authority or the Committee. Upon the failure of the owner/occupant to correct any such violation within said period of time, the Authority or the Committee may, but shall be under no obligation to, correct any such violation. The owner of the building site (and

when occupied by a non-owner, the occupant) shall be personally liable to the Authority for the reasonable costs incurred by the Authority in correcting the violation and such amount shall also constitute a permanent charge and lien upon such building site enforceable by the Authority by any appropriate proceeding at law or in equity.

Section 9.03 ENFORCEMENT

Enforcement of the Covenants and Restrictions contained herein may be by an appropriate proceeding at law or in equity (including specific performance) against any person or persons violating or attempting to violate said Covenants and Restrictions or other provisions of this Declaration either to restrain violation, to enforce personal liability or to recover damages or by any appropriate proceeding at law or in equity to enforce any charge or lien arising by virtue hereof. The failure of the City or of any owner to enforce any portion of these Covenants and Restrictions or other provisions of this Declaration shall in no event be deemed to be a waiver of the right to do so or of the right to enforce any other provision or provisions of these Covenants and Restrictions. The provisions for enforcement set forth in this article are not intended to in any way diminish the rights of the Authority, the Development Review Committee or any owner or occupant to enforce the Covenants and Restrictions set forth in this Declaration against any other owner or occupant who is not in conformity therewith.

ARTICLE TEN

SUBDIVIDING

Section 10.01 SUBDIVIDING BUILDING SITES

Without the approval of the Authority, no building site shall be subdivided. All subdivisions must also obtain the approval of the appropriate local government successor.

ARTICLE ELEVEN

MAINTENANCE

Section 11.01 MAINTENANCE

Purchaser and any tenant of the Property shall have the duty of and responsibility for keeping the premises, building, improvement appurtenance and landscaping in a well-maintained, safe, clean and attractive condition at all times. Without limiting the generality of the foregoing, in the event of damage to any improvements on the Property or the Property itself as a result of condemnation, casualty or other occurrence, Purchaser and the tenant, if any, of the Property shall immediately clean the Property and, if appropriate, raze the improvements on the Property damaged by such occurrence. If, in the opinion of Declarant, or the ARC on behalf of the Association, Purchaser or such tenant is failing in this duty and responsibility, the Declarant or the Arc on behalf of the Association may elect to give notice of such fact to Purchaser or such tenant which shall, within ten (10) days of such notice, undertake the care and maintenance required to restore the Property to a well-maintained, safe, clean and attractive condition. Should Purchaser or such tenant fail to fulfill this duty and responsibility after such notice, Declarant or the ARC on behalf of the Association shall have the right and power to perform such care and maintenance, and the Purchaser or such tenant shall be liable for the cost thereof. If Purchaser or such tenant shall fail to reimburse the entity performing the work, the amount of such charge shall constitute a lien upon the Property enforceable as any other lien, but subordinate to any security deed mortgage and any lien securing a construction loan to the Purchaser or such tenant.

11.02 PURPOSE OF ASSESSMENT

The assessments levied by the Association shall be used exclusively for the purpose of the improvement and maintenance of the Common Area, and for services and facilities devoted to this purpose, including, but not limited to, maintenance of entry markers, greenbelts, medians, retention ponds, and landscape areas, lighting (including, without limitation fees by public utilities in connection therewith), and the enforcement of restrictions upon the use of land within the Sites.

11.03 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS

Purchaser, by acceptance of the foregoing deed, whether or not it shall be so expressed in such deed, and by its execution hereinbelow, covenants and agrees to pay to the Association annual assessments or charges, such assessments to be established and collected as hereinafter provided.

11.04 ANNUAL ASSESSMENTS

In order to provide a fund to be applied for the purposes herein specified, Declarant does hereby subject the Property to an annual assessment, which among the Sites on a per-acre basis. Notwithstanding the foregoing, in no event shall Purchaser be responsible for more than twenty-five and 2/10^{ths} percent (25.2%) of the costs of improving and maintaining the Common Area or otherwise incurred for the purposes of the assessments as described in Article II. The amount and timing for payment of such annual assessment shall be fixed by the affirmation vote of members of the Association having votes equal to more than fifty percent (50%) of the total number of votes in the Association will for each year fix the annual assessment at an amount estimated by the

Association to be required in order that the funds produced thereby will approximate the costs and expenditures of such funds for the purposes herein specified.

Section 11.05 EFFECT OF NON-PAYMENT OF ASSESSMENTS-THE PERSONAL OBLIGATION OF THE OWNER

If assessments are not paid on the date when due and payable as specified in Article II hereof, then such assessment shall be delinquent and shall, together with interest thereon, attorney's fees, court costs and other costs of collection thereof, become a continuing lien on the Property as well as the personal obligation of Purchaser. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the maximum rate permitted by Georgia law, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Property in the manner of foreclosing materialman's liens under applicable Georgia law. No Owner may waive or otherwise avoid liability for the assessments provided for herein.

11.06 LIENS TO SECURE ASSESSMENTS – SUBORINDATION OF LIEN TO MORTGAGES.

The annual assessments shall each constitute and be secured by a separate and valid and subsisting lien, hereby.

ARTICLE TWELVE

DURATION

12.01 DURATION

The Covenants and Restrictions of this Declaration shall run with and bind the land, shall remain in effect, and shall inure to the benefit of and be enforceable by the Authority, or any Owner of a Building Site in the Park of such other property as is

hereafter made subject to this Declaration, for a period of twenty (20) years from the date hereof. Said Covenants and Restrictions may be renewed and extended, in whole or in part, beyond said period for successive periods not to exceed ten (10) years each if an agreement for renewal and extension is signed by Declarant, if it is the Owner of any real property then subject to this Declaration, and by the Owners of at least two-thirds (2/3) of the square feet of land area in the Park, exclusive of streets and other public ways. No such agreement of renewal and extension shall be effective unless filed of record in the Office of the Clerk of the Superior Court of Bartow County, Georgia, or other appropriate office, at least one hundred eighty (180) days prior to the expiration date of this Declaration, as same may be renewed and extended in accordance with the terms hereof. Every purchaser or grantee of any interest in any property now or hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefor, thereby agrees that the Covenants and Restrictions of this Declaration may be extended and renewed as provided in this Section.

ARTICLE THIRTEEN

GENERAL PROVISIONS

Section 13.01 EFFECT OF INVALIDATION

If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof. To this end, the provisions of this Declaration are declared to be severable.

Section 13.02 APPLICABLE LAW.

This Declaration shall be interpreted, construed and enforced in accordance with the laws of the State of Georgia.

Section 13.03 ATTORNEY'S FEES.

In any legal action or equitable proceeding for enforcement of the Covenants and Restrictions or other provisions of this Declaration or of the Development Standards, the losing party shall pay the reasonable expenses, including reasonable attorney's fees, of the prevailing party.

Section 13.04 SEVERABILITY.

Whenever possible, each provision of this Declaration shall be interpreted and construed in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or entity or to any property shall be determined to be prohibited or for any reason to be invalid, such prohibition or invalidity shall not affect any other provision of the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 13.05 WAIVER

Each Owner by acceptance of a deed to any property covered by this Declaration and each Occupant by accepting the benefit of that portion of the Park occupied, expressly waives and renounces any claims, actions, or causes of action that it might acquire against the Authority, the individual members of the Authority or their respective employees, agents or representatives, arising out of the enforcement, attempted enforcement or lack of enforcement of these Covenants and Restrictions or arising out of the Authority's consideration and approval or rejection of any plans and specifications for Improvement(s) to a Building Site, or arising out of the Authority's enforcement, attempted enforcement or lack of enforcement of the Development Standards.

Section 13.06 MODIFICATION OF TERMINATION.

These Restrictions may be modified at any time in any particular or terminated in their entirety by the recording in the Public Records of Bartow County, Georgia, of an instrument modifying or terminating these Restrictions, signed by Owners representing two-third (2/3) of the total number of acres of all Sites. Provided however, that so long as Declarant owns any part of the Property, no such modification or termination shall be effective without the written approval of Declarant.

Section 13.07 NOTICES.

Any notice required to be sent to any Owner of the Property under the provisions of these Restrictions shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as the Owner on the records of the Association at the time of such mailing.

Section 13.08 RIGHT OF ENTRY.

During reasonable hours and subject to reasonable security requirements, Declarant, the Development Review Committee, and their authorized representative shall have the right to enter the Property, but not the inside of buildings, for the purpose of ascertaining whether the Restrictions have been or are being complied with. Authorized personnel of the Association performing outside law and landscape maintenance shall also have such right of entry. Any such entry shall constitute an authorized entry and Declarant, the Authority of Development Review Committee or their agents and representatives shall not be deemed guilty of trespass by reason thereof.

Section 13.09 GOOD FAITH LENDERS CLAUSE.

Any violation of these restrictions shall not affect any lien or security deed or record held in good faith, upon any Site or any part thereof, which lien may be enforced

in due course, subject to the covenants, conditions, reservations and restrictions contained herein.

Section 13.10 CONFLICT WITH DEEDS OF CONVEYANCE.

If any part of these Restrictions shall be in conflict with any covenant, condition or restriction within a previously recorded deed of conveyance shall control to the extent of such conflict.

Section 13.11 COVENANTS RUNNING WITH THE LAND.

This Declaration and all the provisions hereof are and shall be real covenants running with the Property and shall burden and bind the Property for the duration hereof. To that end, this Declaration shall be deemed incorporated in all deeds and conveyances hereinafter made by Purchaser. Every person or entity acquiring or holding any interest or estate in the Property, or the security foreclosure sale or the grantee of a deed in lieu of foreclosure, and their successors and assigns (and by accepting such interest or estate in, or security interest with respect to, the Property, such person or entity) shall be deemed to have assented to this Declaration and all of the terms and provisions hereof.

Section 13.12 NO OBLIGATION REGARDING SHELL.

Shell shall have no obligation whatsoever to subject any other portion of the Shell Tract to covenants, conditions or restrictions.

Section 13.13 OTHER LAND.

The restrictions created by this Declaration burdens only the Property and benefits only the Shell Tract and no other land whatsoever, and there is not intention to benefit any other persons or entities other than Declarant and Owners.

Section 13.14 GENDER AND GRAMMAR.

The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 13.15 CAPTIONS.

The captions of each Article and Section hereof are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 13.16 SUCCESSORS AND ASSIGNS.

Except as otherwise expressly provided herein, this Declaration shall bind and inure to the benefit of Purchaser and its heirs, legal representatives, successors and assigns, and Declarant and its successors and designated assigns.

Section 13.17 MULTIPLE COUNTERPARTS.

This Declaration may be executed in multiple counterparts, each of which shall constitute an original and all of which when taken together shall constitute one and the same instrument.

Section 13.18 COMPLIANCE WITH LAWS.

All building, structures and other improvements upon the Property shall be constructed and maintained in accordance with all applicable laws, statutes, rules, regulations and ordinances of any federal, state or local governmental authority having jurisdiction over the Property. Furthermore, Purchaser shall comply with all laws, statutes, regulations and ordinances regarding the handling, storage or disposal, or otherwise regarding, any “hazardous substances”, “hazardous wastes”, “hazardous

materials”, “toxic substances” as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U. S. C. Sec. 9601 et. seq., the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Sec. 6901 et. seq., the Toxic Substances Control Act, 15 U.S.C. Sec. 2601 et. seq. or any other federal, state or local statute, law, ordinance, code, rule, regulation, order, decree or other requirement of any governmental authority having jurisdiction over the Property which regulates or imposes liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substances or material, as now or at any time hereafter in effect.

IN WITNESS WHEREOF, the BARTOW-CARTERSVILLE JOINT DEVELOPMENT AUTHORITY, Declared herein, has properly executed and signed this document, effective as of the day and year first set forth above.

BARTOW-CARTERSVILLE JOINT
DEVELOPMENT AUTHORITY

BY: _____
Chairman

Unofficial Witness
Signed, sealed and delivered in the
Presence of:

ATTEST: _____
Secretary

NOTARY PUBLIC
My Commission Expires: _____

EXHIBIT "A"

LEGAL DESCRIPTION/PLAT

DRAFT