

# Browning Creek

AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

2016

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AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BROWNING CREEK

WHEREAS, Browning Creek is a residential community in Oktibbeha County, Mississippi; and

WHEREAS, Browning Creek was developed by Browning Creek Development, Inc., a Mississippi corporation, whose President is William C. Randle, Jr.; and

WHEREAS, the said Developer, as Declarant, executed a Declaration of Covenants, Conditions and Restrictions for Browning Creek ("Declaration"), which Declaration was dated April 29, 1997, filed of record on April 30, 1997, and recorded in Book 919, at Pages 331-397, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi; and

WHEREAS, the said Declaration included in its provisions references to Browning Creek Owners Association, Inc., a Mississippi nonprofit corporation, whose Members are the owners of Lots in Browning Creek; and

WHEREAS, under the said Declaration, Browning Creek originally included three separate platted subdivisions, including (1) The Pointe Subdivision, Part 1, according to a plat thereof filed on March 25, 1997, and recorded in Plat Book 7, at Page 6, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which plat was later designated as Slide 197 on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi; (2) East Lake Subdivision, Part 1, according to a plat thereof filed on March 25, 1997, and recorded in Plat Book 7, at Page 7, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which plat was later designated as Slide 197 on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi; and (3) West Lake Subdivision, Part I, according to a plat thereof filed on April 17, 1997, and recorded in Plat Book 7, at Pages 8-11, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which plat was later designated as Slides 198-199 on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi; and

WHEREAS, the three said subdivisions originally included in Browning Creek consisted of 360.76 acres, more or less, as described in a metes-and-bounds legal description attached as Exhibit "A" to the said Declaration; and

WHEREAS, Browning Creek, as originally established, also included an 8.44-acre tract known as Lake Villas located in the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section 8, Township 17 North, Range 15 East, Oktibbeha County, Mississippi, as more particularly described by a metes-and-bounds legal description as Additional Property in Exhibit "B" to the said Declaration, which Exhibit "B" included a plat of Lake Villas as Additional Property; and

WHEREAS, Browning Creek, as originally established, also included a Common Area known as the "Lake", consisting of 159.31 acres, more or less; a Common Area known as the "Entrance", consisting of 1.09 acres, more or less; a Common Area known as "West Woods", consisting of 1.45 acres, more or less; a Common Area known as "East Woods", consisting of 0.91 acres, more or less; and

various roads and cul-de-sacs in the three said subdivisions, all of which Common Areas roads, and cul-de-sacs are described by metes-and-bounds legal descriptions set forth in Exhibit "C" to the said Declaration; and

WHEREAS, Browning Creek, as originally established, also included a schedule of utility easements reserved on, over, and across the Lots in the three said subdivisions, which utility easements are more particularly described in Exhibit "D" to the said Declaration; and

WHEREAS, the said Declaration, including Exhibits "A", "B", "C", and "D", and including all legal descriptions contained therein, are incorporated herein by reference and made a part of this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek; and

WHEREAS, Browning Creek originally consisted of the platted Lots in the three said subdivisions, the combined metes-and bounds legal descriptions of which are set forth in the said Exhibit "A" to the said Declaration, the Additional Property known as Lake Villas, whose metes-and-bounds legal description is set forth in the said Exhibit "B" to the said Declaration, the said Common Areas, roads, and cul-de-sacs, whose metes-and-bounds legal descriptions are set forth in the said Exhibit "C" to the said Declaration; and the said reserved utility easements set forth in the schedule attached as Exhibit "D" to the said Declaration; and

WHEREAS, over a period of several years, Browning Creek Development, Inc., as the original Developer of Browning Creek, enlarged Browning Creek by annexing additional subdivisions and unplatted areas into Browning Creek and making those annexed areas subject to the said Declaration; and

WHEREAS, upon annexation, each annexed area became subject to the said Declaration; and

WHEREAS, the said annexed areas include the following:

(a) Lake Villas Subdivision, according to a plat thereof filed on January 28, 1999, and recorded as Slide 206-D on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(b) Lake Retreats Subdivision (also known as Lake Retreats Subdivision, Phase 1), according to a plat thereof filed on August 30, 1999, and recorded as Slide 211-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which plat was updated and revised by a plat of Lake Retreats Subdivision, Phase 1 Revised, according to a plat thereof filed on January 11, 2007, and recorded as Slide 252-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, and which plats were further updated and revised by a plat of Lake Retreats Subdivision, Phase 1, Second Revision, according to a plat thereof filed on February 16, 2007, and recorded as Slide 254-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(c) Lake Retreats Subdivision, Phase 2, according to a plat thereof filed on August 31, 2001, and recorded as Slide 223-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(d) Lake Retreats Subdivision, Phase 3, according to a plat thereof filed on December 20, 2006, and recorded as Slide 251-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(e) West Lake Subdivision, Part II, according to a plat thereof filed on February 1, 2000, and recorded as Slide 215-B on the land records in the office of the Chancery Clerk, of Oktibbeha County, Mississippi;

(f) East Lake Subdivision, Part II, according to a plat thereof filed on February 10, 2005, and recorded as Slide 240-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(g) The North Estates Subdivision, according to a map thereof filed on February 17, 2016, and recorded as Slide 304-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which Subdivision is composed of Lot 211, which Lot was re-designated as part of The North Estates Subdivision after originally being a single platted Lot in West Lake Subdivision, Part 4 (the Subdivision name was reassigned to the Browning Creek property bordering Browning Creek Road, and which Subdivision is also composed of Lots 212, 213, 214, 215, 220, 220-A, 221, 222, 222-A, 223, 224-A, and 224-B (previously known as the Prisock Property));

(h) West Lake Subdivision, Part III, according to a map thereof filed on February 17, 2016, and recorded as Slide 305-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which map includes that land previously platted as West Lake Subdivision, Part III, composed of Lot 179 (being a single platted Lot previously known as West Lake Subdivision, Part III) and of Lots 251, 252, 253, 254, 255, and 256, according to a plat filed on August 27, 2002, and recorded as Slide 231-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(i) West Lake Subdivision, Part IV, according to a map thereof filed on February 17, 2016, and recorded as Slide 305-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(j) The resubdivision of Lots 105-108 of West Lake Subdivision, Part I, according to a plat thereof filed on March 6, 2001, and recorded as Slide 221-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(k) The re-subdivision of Lots 109, 109-A, and 110, West Lake Subdivision, Part I, according to a plat thereof filed on March 6, 2001, and recorded as Slide 221-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(l) West Lake Subdivision, Part 4, according to a plat (being only of Lot 211) filed on August 27, 2002, and recorded as Slide 231-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(m) East Lake Subdivision, Part III, according to a plat thereof filed on September 22, 2009, and recorded as Slide 271-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

WHEREAS, Browning Creek now consists of those areas described in the said Declaration and the said annexed areas; and

WHEREAS, Browning Creek Development, Inc., the Developer of Browning Creek, no longer owns any Lots in Browning Creek; and

WHEREAS, the said Declaration dated April 29, 1997, has in many respects become antiquated and cumbersome, obstructing the efficient operation and management of Browning Creek by Browning Creek Owners Association, Inc.; and

WHEREAS, the Board of Directors of Browning Creek Owners Association, Inc., has determined that the said Declaration should be updated, modified, revised, and amended by this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek; and

WHEREAS, at least seventy-five percent (75%) of the owners of Lots in Browning Creek, being the requisite number of owners specified in Article XIV, Section 2 of the said Declaration to amend that Declaration, have signed this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek, as evidenced by their signatures below, thereby approving this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek; and

WHEREAS, Browning Creek Development, Inc., the developer of Browning Creek, has approved, consented to, and joined in this Amended and Restated Declaration, as evidenced by a Statement of its President, William C. Randle, Jr., whose signature appears below;

NOW, THEREFORE, this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek is hereby adopted, to become effective at such time as it is filed on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, and shall henceforth apply to all property in the Browning Creek community, including both all Lots in platted subdivisions and open areas in currently unplatted areas, owned by the Association and by Members of the Association, and further including all Common Areas, including but not limited to the "Lake", the "Entrance", "West Woods", "East Woods", and specified roads and cul-de-sacs described in Exhibit "C" to the said Declaration, and further including any Common Areas and roads shown on any of the aforesaid plats. The said Declaration dated April 29, 1997, filed of record on April 30, 1997, and recorded in Book 919, at Pages 331-397, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, has been superseded by this Amended and Restated Declaration and shall no longer be in force and of effect.

## ARTICLE I: DEFINITIONS

The following words when used in this Amended and Restated Declaration or any predecessor or subsequent Declaration (unless the context shall otherwise prohibit) shall have the following meanings:

(a) "Additional Property" shall mean the real property, other than the Property defined in paragraph (u) of this Article I, which may hereafter be annexed to the Browning Creek development and which shall become subject to this Amended and Restated Declaration.

(b) "Assessment" shall mean an Owner's share of the common expenses from time to time assessed each Property Owner by the Association. Assessment or Assessments refer to annual replacement, or special assessments, or any combination thereof.

(c) "Association" shall mean and refer to Browning Creek Owners Association, Inc., a Mississippi non-profit corporation, whose members are owners of Lots in the Browning Creek

development, which Association was incorporated for the purpose of effecting the intents and objectives herein set forth, together with its successors and assigns.

(d) "Board of Directors" or the "Board" shall mean and refer to the Board of Directors of the Association.

(e) "By-Laws" shall mean the by-laws of the Association as they exist from time to time.

(f) "Common Area" shall mean all real property (including the improvements thereon) which is owned by, or otherwise made available to, the Association for the common use, benefit, and enjoyment of the Members. The Common Area includes that portion of the property shown and designated on the Plat of any portion of the Browning Creek development as Common Area and all property not designated as Lots on the Plats of said Property, including West Lake Subdivision, Part IV, as shown on the map thereof filed on February 17, 2016, and recorded as Slide 305-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi. The Common Area shall also include any portion of the Additional Property so designated when and if all or any portion of the Additional Property is annexed to the Property pursuant to Article XIII.

(g) "Common Facilities" shall mean all buildings and improvements constructed on any portion of the Common Area for the common use, benefit, and enjoyment of the Members.

(h) "Declaration" shall mean this Amended and Restated Declaration as it is from time to time amended, together with any predecessor Declaration.

(i) "Developer" shall mean each person or other entity who is the Owner of any portion of the Property or of any Lot therein and is engaged in the business of the development, improvement, and sale of any Lot, including the construction and sale of a Dwelling and related improvements on any Lot.

(j) "Dwelling" shall mean a single-family residential detached house, town house, garden or patio house, or similar residence, but shall not include a multi-family residence.

(k) "Eligible Mortgage Holder" shall mean each holder of a first mortgage or first deed of trust on a Lot who has requested, in writing, that the Association notify it of any proposed action that requires the consent of a specified percentage of eligible mortgage holders or of any assessment or installment thereof, which shall become and remain delinquent for a period in excess of sixty (60) days.

(l) "Green Space" shall mean certain portions of the Common Area which are designated to be maintained in its natural condition so that the natural, scenic, and recreational resources, soils, wetlands, wildlife, game, and migratory birds currently in evidence at Browning Creek will be maintained and enhanced. Such areas are designated as such on the Plats, but shall also include all property in West Lake Subdivision, Part IV, north of Browning Creek Road.

(m) "Invitees" shall mean an owner's tenants, guests, employees, or other guests or invitees.

(n) "Limited Common Area" shall mean and include the exclusive use of that portion or portions of the Common Area, if any, reserved for and granted to a specific Lot and its respective owner,

as provided in Article II, Section 4 hereof, to the exclusion of the other Lots and the respective owners thereof.

(o) "Lot" shall mean and refer to any numbered parcel or tract of land shown upon any currently or subsequently recorded Plat of the Property, exclusive of the Common Area, which is designated for residential development.

(p) "Member" shall mean and refer to each Owner as provided herein in Article III.

(q) "Mortgagee" shall mean a bank, savings and loan association, insurance company, mortgage company, real estate investment trust, pension fund, corporation, recognized institutional type lender or its loan correspondent, agency of the United States government or individuals, which owns or which is the holder of a Recorded First Mortgage or Deed of Trust.

(r) "Owner" or "Property Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee or undivided fee interest in any Lot which is part of the Properties, including contract sellers, but excluding those persons or entities who hold an interest merely as security for the performance of an obligation.

(s) "Person" shall mean an individual, firm, corporation, limited liability company, partnership, association, trust, or other legal entity or any combination thereof.

(t) "Plat" shall mean any of the subdivision plats or maps of subdivisions that were originally a part of, or which were subsequently annexed into, Browning Creek. Those subdivisions include, but are not limited to the following:

(1) The Pointe Subdivision, Part I, according to a plat thereof filed on March 25, 1997, and recorded in Plat Book 7, at Page 6, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which plat was later designated as Slide 197 on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(2) East Lake Subdivision, Part 1, according to a plat thereof filed on March 25, 1997, and recorded in Plat Book 7, at Page 7, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which plat was later designated as Slide 197 on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(3) West Lake Subdivision, Part I, according to a plat thereof filed on April 17, 1997, and recorded in Plat Book 7, at Pages 8-11, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which plat was later designated as Slides 198-199 on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(4) Lake Villas Subdivision, according to a plat thereof filed on January 28, 1999, and recorded as Slide 206-D on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

- (5) Lake Retreats Subdivision (also known as Lake Retreats Subdivision, Phase 1), according to a plat thereof filed on August 30, 1999, and recorded as Slide 211-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which plat was updated and revised by a plat of Lake Retreats Subdivision, Phase I Revised, according to a plat thereof filed on January 11, 2007, and recorded as Slide 252-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, and which plats were further updated and revised by a plat of Lake Retreats Subdivision, Phase 1, Second Revision, according to a plat thereof filed on February 16, 2007, and recorded as Slide 254-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;
- (6) Lake Retreats Subdivision, Phase 2, according to a plat thereof filed on August 31, 2001, and recorded as Slide 223-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;
- (7) Lake Retreats Subdivision, Phase 3, according to a plat thereof filed on December 20, 2006, and recorded as Slide 251-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;
- (8) West Lake Subdivision, Part II, according to a plat thereof filed on February 1, 2000, and recorded as Slide 215-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;
- (9) East Lake Subdivision, Part II, according to a plat thereof filed on February 10, 2005, and recorded as Slide 240-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;
- (10) East Lake Subdivision, Part III, according to a plat thereof filed on September 22, 2009, and recorded as Slide 271-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;
- (11) The North Estates Subdivision, according to a map thereof filed on February 17, 2016, and recorded as Slide 304-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which Subdivision is composed of Lot 211, which Lot was re-designated as part of The North Estates Subdivision after originally being a single platted Lot in West Lake Subdivision, Part 4 (the Subdivision was reassigned to the Browning Creek property bordering Browning Creek Road), and which Subdivision is also composed of Lots 212, 213, 214, 215, 220, 220-A, 221, 222, 222-A, 223, 224-A, and 224-B (previously known as the Prisock Property);
- (12) West Lake Subdivision, Part III, according to a map thereof filed on February 17, 2016, and recorded as Slide 305-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, which map includes that land previously platted as West Lake Subdivision, Part III, composed of Lot 179 (being a single platted Lot previously known as West Lake Subdivision, Part III) and of Lots 251, 252, 253, 254, 255, and 256, according to a plat filed on August 27, 2002, and recorded as Slide 231-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(13) West Lake Subdivision, Part IV, according to a map thereof filed on February 17, 2016, and recorded as Slide 305-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(14) The resubdivision of Lots 105-108 of West Lake Subdivision, Part I, according to a plat thereof filed on March 6, 2001, and recorded as Slide 221-A on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi;

(15) The resubdivision of Lots 109, 109-A, and 110, West Lake Subdivision, Part I, according to a plat thereof filed on March 6, 2001, and recorded as Slide 221-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi; and

(16) West Lake Subdivision, Part 4, according to a plat (being only of Lot 211) filed on August 27, 2002, and recorded as Slide 231-B on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi,

Metes-and-bounds legal descriptions of the aforesaid subdivisions now comprising Browning Creek (except for the metes and-bounds legal descriptions of the three original subdivisions, being The Pointe Subdivision, Part I; East Lake Subdivision, Part 1; and West Lake Subdivision, Part I, which were attached as an exhibit to the original Declaration of Covenants, Conditions, and Restrictions for Browning Creek dated April 29, 1997, and which are already recorded in Book 919, at Pages 331-397, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi) are incorporated herein by reference and made a part hereof.

Plat includes any additional subdivision plat filed for record when and if additional property is annexed to the property pursuant to Article XIII and made subject to this Amended and Restated Declaration,

(u) "Property" or "Properties" shall mean and refer to that certain real property described on the plats of all subdivisions that are a part of, and included in, Browning Creek, together with all unplatted areas that are part of, and included in, Browning Creek, all of which have at any time been subject to the original Declaration of Covenants, Conditions and Restrictions for Browning Creek dated April 29, 1997, and recorded in Book 919, at Pages 331-397, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi, and all real property hereafter annexed pursuant to Article XIII which is made subject to this Amended and Restated Declaration.

(v) "Recorded First Mortgage" shall be deemed to mean a mortgage or deed of trust on a Lot, properly recorded in the office of the Chancery Clerk of Oktibbeha County, Mississippi or other public office designated by the statutes and laws of the State of Mississippi for the recording of mortgages in Oktibbeha County, Mississippi, the lien of which is prior, paramount, and superior to the lien of all other mortgages and deeds of trust on that Lot.

## ARTICLE II: PROPERTY RIGHTS

### Section 1       Owner's Easements of Enjoyment.

Every owner shall have a right and easement of enjoyment in and to the Common Area and Common Facilities, which right and easement of enjoyment shall be appurtenant to, and shall pass with, the title to every Lot, subject to the following provisions:

(a)       The right of the Association, acting by and through its Board of Directors, to levy reasonable admission and other fees for the use of any Common Facilities situated upon the Property by the Members and their families, tenants, and guests; provided, however, that any such fees shall be charged on a uniform basis for each Member;

(b)       the right of the Association, acting by and through its Board of Directors, to suspend any Member's voting rights and any Member's rights to use the Common Areas and Common Facilities (except rights to use streets, roadways and parking areas, which latter rights shall not be subject to suspension for any reason) for any period during which any assessment owed by that Member remains unpaid, and for any period not exceeding sixty (60) days for each infraction of any of the published rules and regulations of the Association;

(c)       the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, public authority, or public utility necessary for such agency, authority, or utility to provide essential services to Members of the Association and subject to such conditions as may be approved by two-thirds (2/3) of the Board of Directors. No such dedication or transfer shall be effective unless two-thirds (2/3) of the Members of the Association authorize such dedication, transfer purpose, and conditions by a written instrument duly recorded on the land records in the office of the Chancery Clerk of Oktibbeha County of Mississippi;

(d)       the right of the Association, acting by and through the Board of Directors by not less than two-thirds (2/3) of the Board of Directors and in accordance with its Charter of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and Common Facilities in a manner designed to promote the enjoyment and welfare of the Members, and in aid thereof to mortgage any of the Common Areas and Common Facilities; provided, however, that no such borrowing in excess of an amount equal to fifty percent (50%) of the total revenue from all assessments during the preceding fiscal year shall be done and no such mortgage shall be executed unless and until same has been approved and authorized by a majority vote of the Members present in person or by Proxy at any annual meeting or at a special meeting called for such purpose and at which a quorum is present;

(e)       the right of the Association, acting by and through its Board of Directors, to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosure; provided, however, that any such steps shall be in conformity with the other provisions of this Amended and Restated Declaration;

(f)       the right of the Association, acting by and through its Board of Directors, to adopt reasonable rules and regulations respecting use of the Common Areas and Common Facilities or reasonably limit the number of guests of Members who may use any facilities on the Property, as well as to suspend with cause the right of members to fish in lakes or ponds on the Property;

(g) the right of the Association, acting by and through its Board of Directors, to grant licenses, rights-of-way, and easements for access to, or for the construction, reconstruction, maintenance, and repair of any utility lines or appurtenances, whether public or private, to any municipal agency, public utility, or any other person; provided, however, that no such licenses, rights-of-way, or easements shall be unreasonably and permanently inconsistent with the rights of the Members to the use and enjoyment of the Common Areas and Common Facilities;

(h) the right of the Association, acting by and through its Board of Directors, to open the Common Areas and Common Facilities, or any portions thereof, to a wider group of persons, all for such purposes and on such basis as the Board of Directors may from time to time consider appropriate;

(i) the rights of the Owners of Lots to perpetual easements over and upon any of the Common Areas and Common Facilities for such portions of their dwellings that may overhang or otherwise encroach upon any of the Common Areas or Common Facilities, for support, for the purpose of necessary repairs and maintenance, for maintenance of reasonable appurtenances to the dwellings, and for reasonable ingress and egress to and from any dwelling through and over the Common Areas and Common Facilities; and

(j) the right of each Member to use the streets, roadways, and vehicular parking areas situated upon the Common Areas and Common Facilities; provided, however, that each Member shall comply in all respects with all supplementary rules and regulations which are not inconsistent with the provisions of this Amended and Restated Declaration and which the Board of Directors may from time to time adopt and promulgate with respect to parking and traffic control upon the Common Areas and Common Facilities.

#### Section 2 Rights Not Subject to Suspension.

Notwithstanding anything in this Amended and Restated Declaration to the contrary, the Association shall have no authority to suspend, either temporarily or permanently, any of the rights specified in sub-paragraphs (i) and (j) of Section I of this for any reason whatsoever.

#### Section 3 Delegation of Use.

Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family who reside permanently with him, his tenants, or contract purchasers who reside on the Property, and guests, all subject to such reasonable rules and regulations as the Board of Directors may adopt and uniformly apply and enforce.

### ARTICLE III: MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

#### Section 1 Membership.

The Members of the Association shall be and consist of all persons who are, or who hereafter become, an owner of record of the fee title or undivided fee interest to a Lot. The expression "owner of record of the fee title or undivided fee interest to a Lot" shall include a contract seller of any such Lot, but shall not include any person who owns such title solely as security for the performance of an obligation or payment of a debt.

## Section 2 Voting Rights.

Each Member shall be entitled to one vote for each assessed Lot owned; provided, however, that where the Board of Directors has heretofore approved the combining of adjacent Lots having one owner, the Member who is that owner shall be entitled to only one vote for all of the combined adjacent Lots; and provided, further, however, that a Member shall not be entitled to vote if any assessment payment is past due at the time of the vote or if any other sum owed by the Member to the Association is more than thirty days past due at the time of the vote.

## Section 3 Memberships Appurtenant to Real Property.

Membership shall be appurtenant to the ownership of a Lot. A membership shall not be held, assigned, transferred, pledged, hypothecated, encumbered, conveyed, or alienated in any manner except in conjunction with, and as an appurtenance to, the ownership, assignment, transfer, pledge, hypothecation, encumbrance, conveyance, or alienation of the Lot to which the membership is appurtenant.

## Section 4 Other Voting Provisions.

If the fee title to a particular Lot is owned of record by more than one person or entity, then the vote appurtenant to such Lot may be exercised by any one of the fee owners thereof, unless the other owner or owners of such fee title shall object prior to the completion of voting upon the particular matter under consideration. In the case of any such objection, the vote appurtenant to said Lot shall not be counted.

# ARTICLE IV: COVENANTS FOR ASSESSMENTS

## Section 1 Creation of the Lien and Personal Obligation of Assessments.

Each Owner of a Lot within the Properties hereby covenants and agrees, and each purchaser of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association: (1) annual maintenance assessments or charges for purposes set forth in Article IV, Section 2; (2) annual road assessments; and (3) special assessments as set forth in Article IV, Section 4, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual maintenance assessments, annual road assessments, and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

## Section 2 Purpose of Assessments.

The annual maintenance assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents of the Properties, and in particular for the supervision, maintenance, and improvement of the Common Area; and for paying the

cost of labor, equipment (including the expense of leasing any equipment) and materials required for the management and supervision of the Common Area, including but not limited to the following:

- (a) the amount of all operating expenses for operating the Common Areas and Common Facilities and furnishing the services furnished to, or in connection with, the Common Areas and Common Facilities, including charges by the Association for any services furnished by it;
- (b) the cost of necessary management and administration of the Common Areas and Common Facilities, including fees paid to any Management Agent;
- (c) the amount of all taxes and assessments levied against the Common Areas and Common Facilities;
- (d) the cost of fire and extended coverage and liability insurance on the Common Areas and Common Facilities and the cost of such other insurance as the Association may place in force with respect to the Common Areas and Common Facilities;
- (e) the cost of garbage and trash collection to the extent provided by the Association, and of utilities and other services which may be provided by the Association, whether for the Common Areas and Common Facilities or for the Lots or both;
- (f) the cost of maintaining, replacing, repairing, and landscaping the Common Areas and Common Facilities (including, without limitation, the cost of maintenance and minor repairs of the streets and constructing unpaved service roads); the cost of maintaining and landscaping open areas in the Property; and the cost of such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith; and
- (g) the cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and a reserve for replacement.

The annual road assessments shall be used exclusively to pay the cost of major repairs and replacement of existing roads, as authorized and approved by the Board of Directors.

### Section 3 Maximum Annual Assessment.

Effective January 1, 2016, the maximum annual maintenance assessment, excluding the road assessment, shall be Six Hundred Thirty Dollars (\$630.00) per assessed Lot, with a separate road assessment per assessed Lot to be set by the Board of Directors.

- (a) Effective January 1, 2017 and continuing on January 1 of each year thereafter, the maximum annual maintenance assessment, excluding the road assessment, may be increased each year not more than 10% above the maximum maintenance assessment for the previous year without a vote of the membership.
- (b) Effective January 1, 2017, and continuing January 1 of each year thereafter, the maximum annual maintenance assessment, excluding the road assessment, may be increased above ten percent (10%) only by a vote of two-thirds (2/3) of the Members who are eligible to vote and who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may each year fix the annual assessment at an amount not in excess of the maximum assessment permitted, as set forth in this Section 3. The Board of Directors shall authorize assessment payments to be made annually, semiannually, or quarterly, as the Board of Directors may from time to time determine.

(d) The Board of Directors may each year establish the road assessment, being the amount necessary to perform major repairs and to replace roads, in an amount sufficient to cover the estimated costs for the year. Effective January 1, 2016, the annual road assessment shall be One Hundred Dollars (\$100.00). The Board of Directors is authorized to adjust the year-to-year road assessment to reflect anticipated market fluctuations in costs of materials, labor, and borrowed funds, which adjustment shall be subject to a maximum annual increase of ten percent (10%).

#### Section 4 Special Assessments.

(a) Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair, or replacement of capital improvements upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are eligible to vote and who are voting in person or by proxy, at a meeting duly called for this purpose.

(b) Special Assessment for Emergencies. In addition to the annual assessments authorized above, the Association may also levy a special assessment, not to exceed One Thousand Dollars (\$1,000.00) per Lot for the purpose of responding to an emergency situation affecting the Browning Creek development as a result of an earthquake, tornado, windstorm, flood, breach of a dam or levee, fire, explosion, riot, civil unrest, or other natural disaster.

(c) Special Assessments for Willful or Negligent Acts. Upon an affirmative vote of two-thirds (2/3) of the Board of Directors, the Association may levy special assessments against individual Lot Owners, for reimbursement for repairs occasioned by the willful or negligent acts of the Lot Owners and not ordinary wear and tear.

(d) Special Assessments for Certain Work Performed by the Association. The Association is hereby authorized to assess any Lot for the cost of all work or activity performed on any such Lot pursuant to Article VI, Article IX, Section 4, or Article XI, Section 15.

(e) Payment of Special Assessments. Special assessments shall be payable in such times and manner as determined by the Board of Directors.

#### Section 5 Notice and Quorum for Any Action Authorized Under Sections 3(b) and 4(a).

Written notice of any meeting called for the purpose of taking any action authorized under Section 3(b) and 4(a) of this Article IV shall be sent to all members at least twenty-one (21) days, but not more than sixty (60) days, in advance of the meeting. The presence, either in person or by proxy, of Members having more than fifty percent (50%) of the votes held by all Members eligible to vote shall constitute a quorum. If the required quorum is not present, then the meeting of Members shall adjourn

and immediately reconvene, without further notice, at which time the quorum shall be reduced to half of the originally required quorum.

Section 6 Uniform Rate of Annual and Special Assessments.

Subject to the special provisions concerning combined adjacent Lots having one owner previously approved by the Board of Directors, as set forth in Article III, Section 2, herein, both annual and special capital assessments must be fixed at a uniform rate for all Lots, payable as set forth in Section 4 above unless two-thirds (2/3) of the Members and fifty-one percent (51%) of the Eligible Mortgage Holders have given prior written approval, the Board of Directors of the Association shall not change the pro rata interest or obligations of any Lot (or owner thereof) for the purposes of levying annual and special capital assessments and charges.

Section 7 Duties of the Board of Directors with Respect to Assessments.

(a) The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association.

(b) Written notice of any change in the amount of any assessment shall thereupon be delivered or mailed to every owner subject thereto.

(c) The Board of Directors shall, upon demand at any time, furnish to any Owner liable for said assessment, a certificate in writing signed by an officer or Management Agent of the Association, setting forth whether said assessment has been paid. Said certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8 Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association.

(a) If any assessment or any part thereof is not paid on the date(s) when due, then the unpaid amount of such assessment shall, together with such interest thereon and cost of collection thereof as hereinafter provided, including attorney's fees and court costs, become a continuing lien on the Lot of the non paying Owner, which lien shall be binding upon such Lot and the Owner thereof, his heirs, executors, devisees, personal representatives, and assigns. The Association shall have the right to reject partial payments of an assessment and demand the full payment thereof. The obligation of the then existing Owner to pay such assessment, however, shall remain his personal obligation and shall not be extinguished by transfer of title. The lien for unpaid assessments shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for the assessment provided herein by abandonment of his Lot.

(b) The Association, if requested, shall give written notification to the holder(s) of the mortgage on the Lot of the non-paying Owner of such Owner's default in paying any assessment when such default has not been cured within sixty (60) days, if such mortgagee has requested same pursuant to Article XIV, Section 7, of this Amended and Restated Declaration.

(c) If any assessment or part thereof is not paid within thirty (30) days after the due date, the unpaid amount of such assessment shall bear interest from the date of delinquency at the

maximum interest rate per annum which can be charged to individuals, and the Association may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or may foreclose the lien against the Property subject thereof after giving Notice to the holder of any Recorded First Mortgage as set out in Article XIV. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action. In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and attorney's fees to be fixed by the court, together with the costs of the action and/or all costs of foreclosure, including a reasonable attorney's fee.

#### Section 9        Reserve Fund for Maintenance.

The Association shall establish and maintain a reserve fund for maintenance of the Common Areas and Common Facilities, and shall allocate and pay to such reserve fund whatever amount may be designated from time to time by the Board of Directors. Amounts paid into such fund shall be conclusively deemed to be a common expense of the Association, and all such amounts may be deposited in any banking institution, the accounts of which are guaranteed by the FDIC, or, in the discretion of the Board of Directors, may be invested in obligations of, or obligations fully guaranteed as to principal by, the United States of America. The reserve for maintenance is for the purpose of providing funds for maintenance of the Common Areas and Common Facilities, for major repairs to any sidewalks, parking areas, streets, boat ramps, clubhouse, roadways, and dams on the Common Area, for equipment replacement, and for start-up expenses and operating contingencies of a non-recurring nature relating to the Common Areas and Common Facilities. The Association may establish for such other reserves for such purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of each Member in any such reserves shall be considered an appurtenance to his Lot, and shall not be withdrawn, assigned, or transferred separately from or otherwise than as an appurtenance to the Lot to which it appertains, and shall be deemed to be transferred with such Lot.

#### Section 10       Subordination of the Lien to Mortgages.

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

#### Section 11       Exempt Property.

The following Property subject to this Amended and Restated Declaration shall be exempt from the assessments, charges, and liens created therein:

- (a) All properties dedicated to and accepted by any local public authority and devoted to public use.
- (b) All areas unplatted or reserved by the Association on the recorded plat or recorded map of the Property.

- (c) The Common Area and Common Facilities.

Section 12 Assessments Are Not Dues.

No portion of the annual maintenance and special Assessments provided in or permitted by this Article IV are intended to be, or shall be construed to be, dues for membership in the Association.

Section 13 Assessment of Developers.

Any Lot owned by a Developer shall not be subject to Assessment by the Association until sixty (60) days after completion of construction of any Dwelling on such Lot or, if earlier, one hundred eighty (180) days after the date a deed for such Lot is delivered to the Developer.

ARTICLE V: GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS OF THE ASSOCIATION

The Board of Directors shall have all the powers, authorities and duties necessary or appropriate for the management and administration of the affairs of the Association, and in managing and administering such affairs, the Board of Directors shall have power and authority to do all acts and things except those which by law, by the Amended and Restated Declaration, by the Charter, or by the By-Laws, as the same may be amended from time to time, may be exercised and done only by the Members. The powers, authorities and duties of the Board of Directors shall include, but shall not be limited to, the following:

(a) To provide for the care, upkeep, maintenance, and surveillance of the Common Areas and Common Facilities and services, including the establishment of a reserve fund, in a manner consistent with law and the provisions of the By-Laws and the Amended and Restated Declaration;

(b) To provide for the establishment, assessment, collection, use, and expenditure of assessments, including interest, late charges, and attorney's fees, and for the filing and enforcement of liens therefor in a manner consistent with law and the provisions of the By-Laws and the Amended and Restated Declaration;

(c) To provide for the designation, hiring and dismissal of the personnel necessary and appropriate for the proper care and maintenance of the Common Areas and Common Facilities and to provide services on the project in a manner consistent with law and the provisions of the By-Laws and the Amended and Restated Declaration;

(d) To provide for the promulgation and enforcement of such rules, regulations, restrictions, and requirements as may be deemed proper for the efficient operation and management-of the Association and for the use, occupancy, and maintenance of the Common Areas and Common Facilities, including but not limited to rules, regulations, restrictions, and requirements designed to prevent unreasonable interference with the use of the Common Areas and Common Facilities by the Members and others, all of which rules, regulations, restrictions, and requirements shall be consistent with law and with the provisions of the By-Laws and the Amended and Restated Declaration;

(e) To authorize, in its discretion, the payment of patronage refunds if and when the funds derived from assessments shall prove to be more than sufficient to meet all reasonably foreseeable needs of the Association during the then current fiscal year;

(f) To purchase insurance upon the Common Areas and Common Facilities in the manner provided for in the By-Laws and this Amended and Restated Declaration;

(g) To repair, restore, or reconstruct all or any part of the Common Areas and Common Facilities after any casualty loss in a manner consistent with law and the provisions of the By-Laws and this Amended and Restated Declaration, and to otherwise improve the Common Areas and Common Facilities;

(h) To lease and to grant licenses, easements, rights-of-way, and other rights of use to public utilities or other public agencies in all or any part of the Common Areas and Common Facilities necessary for such agency or utility to provide essential services to Members of the Association and subject to such conditions as may be approved by two-thirds of the Board of Directors;

(i) To purchase Lots and to lease, mortgage or convey the same, subject to the provisions of the By-Laws and this Amended and Restated Declaration;

(j) To employ for the Association, at its sole discretion, a management agent or manager (herein at times referred to as the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors from time to time shall prescribe. Any management agreement entered into by the Association shall provide, inter alia, that such agreement may be terminated, with or without cause, by either party upon thirty (30) days' written notice to the other party. The term of any such management agreement shall not exceed one year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods;

(k) To charge a transfer fee in an amount to be set by the Board of Directors whenever title to any Lot or part of any Lot is conveyed. The transfer fee may be paid by either the Purchaser or Seller or in part by both Purchaser and Seller; and

(l) To establish a schedule of fines to be imposed upon Members who fail to correct violations of the Amended and Restated Declaration or of rules, regulations, restrictions, and requirements (including those promulgated or established by the Architectural Review Committee) after being notified by the Board of Directors to make such corrections, which fines shall be a lien upon the Lot of the offending Member.

## ARTICLE VI: INSURANCE

### Section 1 Association Insurance.

(a) The Association shall obtain fire and extended coverage and comprehensive public liability insurance in such limits and form, and with such companies, as the Board of Directors shall deem advisable to adequately insure the Common Areas and Common Facilities and protect the Owners from and against liability in connection with the Common Area.

(b) All costs, charges, and premiums for all insurance authorized by the Board of Directors, as provided herein, shall be a common expense of all Owners and a part of the assessment.

## Section 2       Owners Insurance.

(a) Each Owner shall keep his residence insured at all times for its full replacement value against losses due to fire, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke, and any other hazards that may be covered under standard extended coverage provisions. In every case of a loss due to any of these hazards in which the improvements have not been totally destroyed, each Owner shall promptly repair the improvements. If the improvements have been totally or completely destroyed, Owner shall promptly clean the Lot to a condition acceptable to the Architectural Review Committee. Thereafter, Owner may rebuild by following the procedures established by Article VIII hereof. In the event Owner fails to repair the damage or clean the Lot, the Board of Directors, after thirty (30) days written notice, may clear the Lot and levy a special assessment against the Lot for all costs incurred in cleaning said Lot. Repair or reconstruction of the improvements as used here shall mean restoring the improvements to substantially the same condition which existed prior to the damage.

(b) Each Owner shall be responsible at his own expense and cost for his own personal insurance on the contents of his own residence, carport or parking space, including decorations, furnishings, and personal property therein, and his personal property stored elsewhere on the properties; and for his personal liability not covered by liability insurance for all Owners obtained as a part of the common expense.

## ARTICLE VII: AD VALOREM PROPERTY TAXES

Each Owner shall be responsible for and promptly pay ad valorem taxes on his Lot. The Association shall pay the ad valorem taxes on the Common Area and Common Facilities.

## ARTICLE VIII: ARCHITECTURAL CONTROL

### Section 1       Architectural Review.

(a) No building fence, wall, pool, or other structure shall be commenced, erected, placed, altered, or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the proposed plans and specifications showing the nature, kind, shape, height, materials, exterior color or finish, plot plan showing the proposed location of such building or structure, drives and parking areas, landscape plan, and construction schedule shall have been submitted to and approved in writing by the Architectural Review Committee designated by the Board of Directors. No alteration in the exterior appearance of any building or structure shall be made without like approval from the Architectural Review Committee. No propane gas storage tank or related equipment or fixtures may be installed upon any Lot without like approval.

(b) Two (2) printed sets, together with one (1) PDF file submitted by email, of all plans and related data shall be furnished to the Architectural Review Committee. One printed copy shall be retained by the committee, and the other printed copy shall be retained by the Property Owner or builder marked "Approved" or "Disapproved". Approval shall be dated and shall not be effective for

construction commenced more than six (6) months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event the Architectural Review Committee fails to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

(c) No approval of plans and specifications and no publication of architectural standards bulletins shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence will be built in a good, workmanlike manner. The Board of Directors or the Architectural Review Committee may require payment of a cash fee to pay the fees of any professional engineer or architect employed to review plans or related data. This paragraph shall not apply to any Property utilized by a governmental agency or institution.

(d) Refusal of approval of plans, specifications, or location may be based by the Architectural Review Committee upon any ground, including purely aesthetic considerations, so long as they are not arbitrary and capricious. Neither the Board of Directors nor the Architectural Review Committee shall be liable to a Property Owner or to any other person on account of any claim, liability, or expense suffered or incurred by, or threatened against, a Property Owner or such other person arising out of or in any way relating to the subject matter of any reviews, acceptances, inspections, permissions, consents, or required approvals which must be obtained from the Architectural Review Committee or public authorities, whether given, granted, or withheld.

## Section 2        Buildings.

(a) The minimum square feet of heated and cooled living area to be contained within the main house or residential structure constructed on any Lot in a platted subdivision or in an unplatted area in Browning Creek shall be 2,200 square feet; provided, however, that in Lake Retreats Subdivision, Phases I, 2, and 3, the minimum square feet of heated and cooled living area to be contained within the main house or residential structure shall be 1,600 square feet. Provided, further, however, that the Architectural Review Committee may grant a variance from these requirements in case of a Lot of inadequate size.

(b) No Dwelling or other building shall be erected on any Lot nearer than thirty-five (35) feet from the front Lot line, except for buildings constructed on waterfront Lots, zero Lot line Lots, and patio and cluster Lots.

(c) Building locations on waterfront Lots are set forth in Section 3 of Article IX. The Architectural Review Committee shall establish the location of and the size of all buildings to be constructed on all zero Lot line Lots and on all patio and cluster Lots.

(d) For some Lots in Browning Creek, it may be impossible or inadvisable to enforce the above stated set-back requirements or those set forth in Section 3 of Article IX due to the natural terrain, Lot configurations, and/or proximity of adjacent structures. Therefore, notwithstanding anything else herein to the contrary, the Architectural Review Committee may approve specific deviations to the said setback requirements when it believes such deviations to be beneficial to a specific homesite or to adjacent homesites.

(e) Each Dwelling constructed on a Lot in Browning Creek is encouraged be built in accordance with the standards and specifications of 4-County Electric Power Association's "Power Plus" program, as now in existence or hereafter amended; it being the intention of the Association that Browning Creek be primarily an "all electric" development. Any and all propane tanks must be buried in a location approved by the Architectural Review Committee.

### Section 3 Topography.

The topography of the Property shall not be altered by removal, reduction, excavation, filling, or any other means without the prior written approval of the Architectural Review Committee. Written approval will be granted for the minimum amount of earth movement required in plans and specifications approved pursuant to the provisions of the Amended and Restated Declaration.

### Section 4 Tree Removal.

No trees or shrubs with a diameter of six inches or more may be removed from a Lot prior to the building of a new home thereon without the written approval of the Architectural Review Committee. Approval for the removal of trees located within the proposed site for the main dwelling, accessory building, or within ten (10) feet of the approved site for such building(s) will be granted unless such removal will substantially decrease the beauty of the Property.

### Section 5 Rules and Regulations, Etc.

The Architectural Review Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted to it for approval, and may publish and record such statements of policy, standards, and guidelines, and may establish such criteria relative to architectural styles or details, colors, setbacks, materials or other matters relative to architectural review and the protection of the environment, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Amended and Restated Declaration. The decisions of the Architectural Review Committee shall be final except that any member who is aggrieved by any action or forbearance from action by the Committee (or any policy, standard, or guideline established by the Committee) may appeal the decision of the Architectural Review Committee to the Board of Directors, and upon written request, such members shall be entitled to a hearing before the Board of Directors

### Section 6 Environmental Hazards.

(a) To secure the natural beauty of the Property, the Architectural Review Committee may promulgate and amend from time to time rules and regulations which will govern activities which may, in its judgment, be environmental hazards, such as the application of fertilizers, pesticides, or other chemicals. Failure of any Property Owner or tenant of Property in Browning Creek to comply with the requirements of such rules and regulations shall constitute a breach of this Amended and Restated Declaration.

(b) The Association, its successors in title, assigns, and agents shall have a perpetual and releasable right on, over, and under all property in Browning Creek for the purpose of taking any action

necessary to effect compliance with such environmental rules and regulations. The cost of such action shall be paid by the respective property owner(s) of the property upon which the work is performed.

Section 7 Further Siting Authority.

To prevent excessive "run" or drainage from any Lots, the Board of Directors and/or the Architectural Review Committee shall have the right to establish a maximum percentage of Property which may be covered by a building, patio, driveway, or other structures. In the establishment of such a maximum percentage, the Board of Directors and/or the Architectural Review Committee shall consider topography, percolation rate of the soil, soil types and conditions, vegetation cover, and other relevant environmental factors. The said right or any other right held by the Board of Directors and/or the Architectural Review Committee shall not be construed, however, to be an obligation of the Board of Directors and/or the Architectural Review Committee and/or the Association to take any action.

Section 8 Committee Appointment and Operation.

The Board of Directors shall appoint an Architectural Review Committee which shall be composed of three (3) or more individuals who shall serve at the pleasure of the Board of Directors. The affirmative vote of a majority of the members of the Architectural Review Committee shall be required in order to adopt or promulgate any rules or regulation or to make any finding, determination, ruling, or order, or to issue any permit, consent, authorization, approval, or the like pursuant to the authority contained in this Article.

## ARTICLE IX: GREEN SPACE AND WATERFRONT AREAS

Section 1 Intent.

It is the intention of the Association that the natural, scenic and recreational resources, soils, wetlands, wildlife, game and migratory birds currently in evidence at Browning Creek be maintained and enhanced by designation of certain areas of the Common Area as "green space" by this Amended and Restated Declaration or its predecessor or any supplements thereto or as designated on all plats of the Property filed with the Chancery Clerk of Oktibbeha County.

Section 2 Wildlife.

Pursuant to the aforesaid overall objectives of wildlife conservation, no hunting, trapping, or discharging of firearms shall be permitted on any portion of the property at any time except for undesirable wildlife as authorized and approved by rules and regulations promulgated by the Association from time to time. The Association, together with its successors and assigns, shall have the right to erect wildlife feeding stations, to plant small patches of cover and food crops for wildlife, to make access trails or paths or boardwalks through green space and Common Area for the purposes of permitted observation and study of wildlife and for hiking and riding, to erect small signs throughout the green space designating points of interest and attraction, and to take such other steps as reasonably necessary and proper to further the community use and enjoyment of the green spaces. The Association, together with its successors and assigns, shall have the right, but shall not be obligated, to protect from erosion all green space and shoreline on all Lots abutting the lake by planting trees, plants, and shrubs where and to the extent necessary, or by such mechanical means as construction and

maintenance of siltation basins, or other means deemed expedient or necessary by the Board of Directors of the Association. The Association, together with its successors and assigns, shall also have the right to take steps necessary to provide and insure adequate drainage ways in the green space and Common Area, to cut fire breaks, to remove diseased, dead, or dangerous trees, and to carry out other similar activities, the cost of such services to be paid by assessment of the Association in accordance with Article IV of this Amended and Restated Declaration.

### Section 3        Waterfront Areas.

To preserve the natural character of Browning Creek, there are hereby established construction and clearing restrictions on all properties which front on the lake, and that portion of the Property comprising the lake, swamp, and flooded area (hereinafter collectively referred to as "lake") shall be preserved substantially in its present natural state except for moderate clearing for view and breeze, as approved by the Architectural Review Committee. Notwithstanding the foregoing, the Association, together with its successors and assigns, shall have the right to exempt properties from said construction and clearing restrictions in those cases where the Architectural Review Committee, in its discretion, determines, in a manner neither arbitrary nor capricious, that such exemption will not materially lessen the natural appearances and scenic beauty of the lake or determines that such exemption is necessary to protect the shoreline from erosion or from pollution. The following horizontal construction set-back restrictions from the lake are hereby established:

(a)        Except for buildings constructed on zero Lot line Lots and patio and cluster Lots, no house sites, no building or other structure shall be constructed or maintained on any Property within fifty (50) feet of the lake, and no parking areas designated to accommodate more than two automobiles shall be constructed or maintained on any Property within seventy-five (75) feet of the lake with the exception of boathouses constructed and approved by the Architectural Review Committee.

(b)        In Common Areas and Green Space, no building or other structures shall be constructed or maintained within twenty (20) feet of the lake, and no parking areas designated to accommodate more than two automobiles shall be constructed or maintained within forty (40) feet of the lake, except for boathouses and recreational facilities constructed by the Association and/or approved by the Architectural Review Committee. All boat houses and piers shall be constructed in accordance with the design and building criteria adopted by the Architectural Review Committee, and the location and extension of same into the lake shall be approved by the Architectural Review Committee prior to commencement of construction; provided however, that all piers and docks shall be constructed within the extended boundaries of the side Lot lines, and that, in no event, shall any structure extend into the lake more than twenty-two (22) feet from the existing natural water line of the Lot.

### Section 4        Shoreline Stabilization.

The Owner of a waterfront Lot shall maintain the shoreline of that Lot according to the shoreline stabilization criteria adopted by the Architectural Review Committee or such other plan as may be submitted by the Owner and approved by the Architectural Review Committee. In the event such Owner of a waterfront Lot shall fail to maintain the shoreline thereof as required, the Association shall have the option, but not the obligation, to stabilize said shoreline in accordance with the shoreline stabilization criteria adopted by the Architectural Review Committee and charge the cost of said work to the Property Owner as a special assessment against that Owner's Lot. The Association, together with

its successors, assigns, and agents, shall have the right to enter upon such Lot for the purpose of performing said work; provided, however, that prior to exercising such rights to enter upon such Lot for the purpose of performing said work, the Association shall give the property owner the opportunity to stabilize the shoreline by giving such Property Owner notice that the work must be completed within a reasonable time or that such work shall be performed by the Association. Such notice shall specify the work to be done and the time by which such work must be completed.

Section 5        Other Regulations.

The use of the Common Areas, Common Facilities, green areas, and lake by the Property Owners and their guests and invitees shall be governed by the applicable rules, regulations, and policies as from time to time promulgated by the Association. The Association shall have the right and authority to lower the level of the lake at such times as the Board of Directors determines such lowering to be in the best interest of the lake and property for the maintenance, preservation, and development of the shorelines and for the maintenance and preservation of fish and other wildlife. The Association shall not be liable for any matter or claim of any nature whatsoever arising directly or indirectly from the exercise of the right and authority to lower the lake.

ARTICLE X: EASEMENTS

Section 1        Utility Easements.

The Association and each utility providing service to the Property shall have, and are hereby granted or reserved, non-exclusive easements and rights-of-way in, through, across, on, over, and under the portions of the Property which are not improved with Dwellings, buildings or other structures, including full rights of ingress and egress, for the installation, operation, use, maintenance, repair, and removal of utilities and drainage facilities and floodway easements located in utility or drainage easements as listed on the Schedule of Easements attached hereto as Exhibit "A", which are hereby granted and reserved pursuant to this Section 1 or as shown and designated on any recorded plat or recorded map. The Association and any said utility shall also have, and are hereby granted or reserved, the right to remove any obstruction in any utility or drainage easement which may interfere either with the use of any utility or drainage easement or with the installation, operation, use, maintenance, repair, and removal of such utility or drainage facility.

The Association shall have non-exclusive easements and rights-of-way in, through, across, on, over, and under the portion of the Common Area which is not improved with buildings or structures to store building supplies and materials; and to install, construct, maintain, reconstruct, and repair sewers, water pipes, irrigation pipes, electrical wires or cables, telephone wires or cables, gas lines, storm drains, television cables, underground conduits, and any related improvements or appurtenances; and for all other purposes reasonably related to the completion of construction and the provision of public or private utility services to any portion of the Property. Any and all conveyance documents to the Association with respect to the Common Area and Common Facilities shall be conclusively deemed to incorporate the provisions of this Section 1, whether or not specifically contained in such conveyance documents.

The reservations and rights in this Section I expressly include the right to (i) cut any trees, bushes, or shrubbery, (ii) make any gradings of the soil, and (iii) take any other similar action reasonably necessary to provide economical and safe utility and drainage facility installment, repair, and maintenance, and to maintain reasonable standards of health, safety, and appearance.

Section 2        Damage and Ingress and Egress.

Any entry by the Association or any utility upon any Lot for the purposes permitted or contemplated by this Article X shall be made with as little inconvenience to the Owner as reasonably practical, and all physical damage to any Lot or improvement on a Lot resulting from or caused by such entry shall be promptly repaired and restored.

Section 3        Maintenance and Support Easements.

Where Dwellings are permitted on or in close proximity to the boundaries of a Lot, the Common Area and Common Facilities and each Lot and Dwelling on such Lot shall be subject to irrevocable easements for the benefit of the Association and the Owners of the adjoining Lots and abutting Dwellings for (i) drainage, (ii) the maintenance and unobstructed and uninterrupted use of any and all pipes, ducts, flutes, chutes, conduits, cables, wire outlets, and utility lines, (iii) maintenance and lateral support of adjoining and abutting buildings and improvements, (iv) such portions of any building or improvement that may overhang a Lot or any portion of the Common Area and Common Facilities, and (v) the walks and sidewalks serving such adjoining and abutting areas.

Section 4        Shoreline Easements.

The Association shall have, and is hereby granted or reserved, non-exclusive easements and rights-of-way in, through, across, on, over, and under the portions of the Property designated on any Plat as a "Shoreline Maintenance Easement", including full rights of ingress and egress for the maintenance, repair, and stabilization of the shoreline of the lake area.

## ARTICLE XI: USE RESTRICTIONS

The Property shall be subject to the following use restrictions:

Section 1        Use of Lots and Dwellings.

Each Lot and dwelling shall be used for single family residential purposes only, and no trade and business of any kind may be carried on thereon or therein. The use of a portion of a dwelling as an office shall not be considered to be a violation of this covenant if such use does not create regular customer, client, or employee traffic; provided, however, that in no event shall any Lot or dwelling be used as a storage area for any building contractor or real estate developer. Lease or rental of a dwelling for residential purposes shall not be considered to be a violation of this covenant so long as the lease (i) is for not less than the entire dwelling and all the improvements thereon, (ii) is for a term of at least six (6) months, and (iii) is otherwise in compliance with the rules and regulations as may be promulgated and published from time to time by the Board of Directors. All leases shall be required to be in writing, and prior to commencement of any such lease, the Property Owner shall provide the Association and the Management Agent of the Association, if any, with copies of such lease. Any lessee or tenant shall

in all respects be subject to the terms and conditions of this Amended and Restated Declaration and the rules and regulations adopted hereunder.

Section 2 Exterior Appearances.

(a) No chain-link fences shall be permitted within the development unless approved by the Architectural Review Committee. No foil or other reflective materials shall be permitted. When not in use, all garage doors shall be kept closed. No projections of any type shall be placed or permitted above the roof of any improvement except approved chimneys or vents or other objects as may be approved by the Architectural Review Committee.

(b) Each Property Owner, except those owning a Lot in Lake Retreats Subdivision, Phases 1, 2, and 3, shall provide a screened area to serve as a service yard and an area in which garbage receptacles or similar storage receptacles, electric and gas meters, air conditioning equipment, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened areas delineating the size, design, texture, appearance, and location must be approved by the Architectural Review Committee prior to construction.

Section 3 Signs.

Except for uniform mailboxes and house numbers approved by the Architectural Review Committee, and such signs as may be required by legal proceedings, no signs, advertising, or ornaments of any kind shall be maintained or permitted within any windows, on the exterior of any windows located within the development or elsewhere on any portion of the Property by anyone, except with the written approval of the Board of Directors of the Association. In addition, the Board of Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Area and within those easement areas established under the Amended and Restated Declaration.

Section 4 Other Buildings and Vehicles.

No tent, trailer, barn, storage building, or other similar outbuilding or structure, other than a boathouse on lakefront Lots, shall be placed on any Lot or on any other area at any time, either temporarily or permanently, without prior approval of the Architectural Review Committee. Any storage building added to any Lot after January 1, 2016, shall be constructed on a concrete slab, with exterior materials and roofing being of the same materials as the home on that Lot, and with paint being of the same colors as those of the home on that Lot. No manufactured home shall be placed on any Lot or any other area at any time, either temporarily or permanently. Each Owner shall provide for parking for at least two automobiles for each Lot owned. All automobiles owned or used by Owners or occupants other than temporary guests and visitors shall, as far as possible, be parked in enclosures which screen the automobile from street view. The Board of Directors shall have authority to promulgate rules and regulations to govern or prohibit the outside storage or parking upon any Lot, Dwelling, or within any portion of the Common Areas (other than in areas provided therefor within the Common Areas, if any) of motorhomes, tractors, trucks (other than pickup trucks), commercial vehicles of any type, campers, motorized campers or trailers, boats or other watercraft, boat trailers, ATV's, motorcycles, motorized bicycles, motorized go-carts, or any other related forms of transportation devices. Furthermore, the Board of Directors may at any time prohibit motor homes, campers, trailers

of any kind, motorcycles, motorized bicycles, motorized go-carts, and other similar vehicles, or any of them, from being kept, placed, stored, maintained, or operated upon any portion of the Property. No Owners or other occupants of any portion of the Property shall repair or restore any vehicle of any kind upon or within any Lot, Dwelling, or within any portion of the Common Areas, except (i) within enclosed garages or workshops or (ii) for emergency repairs and then only to the extent necessary to enable the movement thereof to a proper repair facility. The Association shall have, or is hereby granted or reserved, the right (without any obligation to do so) to designate within the Property a parking area for boat trailers, motor homes, or similar vehicles.

#### Section 5        Unsightly Conditions and Nuisances.

It shall be the responsibility of each Property Owner. and tenants thereof to prevent the development on the Property of any unclean, unsightly, or unkempt conditions of building or grounds which shall tend to decrease the beauty of the community as a whole or of a specific area. No rubbish shall be permitted to accumulate upon any portion of the Property, nor shall any nuisance or odors be permitted to operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to person using or occupying any other portions of the Property. Noxious or offensive activities shall not be carried on in any Lot, Dwelling or any part of the Common Areas, and each Owner, his family, tenants, invitees, guests, servants, and agents shall refrain from any act or use of a Lot, Dwelling, or the Common Area which would cause disorderly, unsightly, or unkempt conditions, or which would cause embarrassment, discomfort, annoyance, or nuisance to the occupants of other portions of the Property, or which would result in a cancellation of any insurance for any portion of the Property, or which would be in violation of any law, governmental code, or regulation. Without limiting the generality of the foregoing conditions, no exterior speakers, horns, whistles, bells, or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Property. Any Owner, or his family, tenants, guests, invitees, servants, or agents, who dump or place any trash or debris upon any portion of the Property shall be liable to the Association for the actual cost or removal thereof or the sum of \$150.00, whichever is greater, and any such sum shall be added to and become a part of that portion of the assessment next becoming due to which the Owner and his Lot are subject.

#### Section 6        Antennas.

No television antenna, satellite dish (unless the location thereof is approved by the Board of Directors), radio receiver, or similar device shall be attached to or installed on any portion of the Property, unless contained entirely within the interior of a building or other structure, nor shall radio or television signals or any other form of electromagnetic radiation be permitted to originate from any Lot which may unreasonably interfere with reception or other signals within the Property.

#### Section 7        Lights.

The design and location of landscape lighting fixtures shall be subject to the approval of the Architectural Review Committee. Neither these nor any other illumination devices, including but not limited to Christmas ornaments, shall be located anywhere on the structure or grounds of any Lot in such a manner as to adversely illuminate or affect the nighttime environment of any adjoining Property.

Section 8        Pets.

No animals, water fowl, livestock, or poultry of any kind, shall be raised, bred, kept, staked, or pastured on any Lot, or in the Common Area, except dogs, cats, birds, or other household pets which shall be kept and maintained in accordance with the rules and regulations adopted from time to time by the Board of Directors; provided, however, that horses may be kept on a Lot if approval therefor is obtained from the Board of Directors. If any permitted household pet leaves the Lot of its Owner, the pet shall be on a leash.

Section 9        Time Sharing.

No Lots or dwellings shall be sold under any time sharing, time interval, or assumption of right-to-use programs.

Section 10        Trespass.

Whenever the Association is permitted by the Amended and Restated Declaration to repair, clean, preserve, clear out, or do any action on any part of the Property, entering any Lot or any portion of the Property and taking such action shall not be deemed a trespass.

Section 11        Subdivided.

No Lot less than five (5) acres shall hereafter be subdivided or its boundary lines changed, except that a Lot consisting of two or more Lots previously combined may be subdivided into the originally platted Lots and upon the terms and as provided in Section 12 of this Article regardless of the combined Lot size. So long as the Association or its successors and assigns owns any Lots subject to the Amended and Restated Declaration, however, the Association, together with its successors and assigns, shall have, and is hereby expressly granted or reserved, the right to replat any such Lot or Lots owned by it, as shown on the recorded plat or recorded map of any subdivision within Browning Creek, and to take such other steps as are reasonably necessary to make such replatted Lot suitable and fit as a building site, including, but not limited to, the relocation of easements, walkways, rights of ways, and other amenities to conform to the new boundaries of said replatted Lots. Hereafter, the provisions of this Section 11 shall not prohibit the combining of two or more adjacent Lots into one larger Lot or making two Lots out of three or more adjacent Lots; provided, however, that adjacent Lots having the same owner may hereafter be combined into one Lot only upon the express approval of the Board of Directors; and provided, further, however, that the owner of combined adjacent Lots must pay annual assessments, road assessments, and special assessments on each of the combined Lots.

Section 12        Previous Approval of Combining of Lots.

No adjacent Lots shall be combined without the express approval of the Board of Directors, which approval shall be granted only upon unusual or extraordinary circumstances, and only upon the commencement of a single residential structure on the Lots being combined; provided, however, that nothing in this provision shall be construed to affect the previous combining of Lots prior to the effective date of this Amended and Restated Declaration. Where the Board of Directors has previously approved the combination of adjacent Lots having the same owner into one Lot and has suspended the payment of assessments on one or more of the combined Lots, so that the owner pays assessments on only one Lot, this policy shall continue in effect so long as the same owner continues to own the

combined Lots. But if the owner of the combined Lots should ever sell or convey the combined Lots upon which construction of a residential dwelling has not been commenced or should ever sell or convey any one of the combined Lots and thus resubdivided the previously combined Lots, then upon the effective date of the sale or conveyance, the prior suspension of any assessment payments shall terminate. The purchasing owner of the combined Lots upon which construction of a residential dwelling has not been commenced and each owner of any one of the resulting Lots of the subdivision of the previously combined Lots shall thereafter pay separate assessments on each of the previously combined Lots, which shall no longer be considered as combined.

Section 13      Certain Construction Rights.

Notwithstanding any other provision of this Amended and Restated Declaration, the Association, together with its successors and assigns, shall have, and is hereby granted or reserved the right to build bridges, walkways, or expanse across any natural or man-made canals, creeks, riding trails, paths, or lagoons on the Property. Nothing in this section shall be construed as placing an affirmative obligation on the Association to provide or construct any such improvement.

Section 14      Option.

The Association, together with its successors and assigns, may purchase any Lot or dwelling within the Property which is offered for sale.

Section 15      Certain Controls.

(a) To implement effective and adequate erosion controls and protect the beauty of the lake, the Association, together with its successors, assigns, and agents, shall have the right to enter upon any lakefront Property before and after a building has been constructed thereon for the purpose of performing any grading or landscaping work or constructing and maintaining erosion prevention devices. Provided, however, that prior to exercising its rights to enter upon the properties for the purpose of performing any grading or landscaping work or constructing or maintaining erosion prevention devices, the Association shall give the Property Owner the opportunity to take any corrective actions required by giving the Property Owner notice explaining what type of corrective action is required and stating that it must be performed within a reasonable period of time. If such Property Owner fails to take the corrective action specified in timely fashion, the Association may then exercise its right to enter in upon the Property in order to take the necessary action. The costs of such erosion prevention measures, when performed by the Association, shall be paid by the Owner of the said Property and shall constitute a lien against the Property Owner's Lot until paid.

(b) To implement effective insect, reptile, and fire ant control, and vegetation and trash control, the Association, together with its successors, assigns, and agents, shall have the right to enter upon any property on which a building or structure has not been constructed and upon which no landscaping plan has been implemented for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, or other unsightly growth, removing trash, or dispensing pesticides on all such property which in the opinion of the Architectural Control Committee distracts from the overall beauty, setting, and safety of the Property. The cost of this vegetation and trash control shall be kept as low as reasonably possible and shall be paid by the respective Property Owner. Such entry shall not be

made until thirty (30) days after such Property Owner has been notified in writing of the need of such work and unless such Property Owner fails to perform the work within said thirty (30) day period.

(c) The provisions of this section shall not be construed as an obligation on the part of the Association to mow, clear, cut, or prune any property, to provide garbage or trash removal services, to perform any grading or landscaping work, to construct or maintain erosion prevention devices, or to provide water pollution control on any privately owned property.

(d) Entrance upon Property pursuant to the provisions of this Section 15 shall not be deemed trespass. The rights reserved unto the Association in this section shall not be unreasonably employed and shall be used only where necessary to achieve the stated intents and purpose of this Amended and Restated Declaration.

#### Section 16 Water Wells and Sewer Treatment Systems.

Except as herein provided, no water wells shall be permitted on any Lot, and no plans and specifications for such water wells shall be approved by the Architectural Review Committee unless such plans and specifications provide that the Lot will be served by the community water and sewer system serving the Property. This restriction shall not prevent the Association from designating any part of the property in Browning Creek for the purpose of developing a community water and sewer system thereon, to serve the Property or other properties in close proximity thereto, or from dedicating any such property to some other authority or company for the purpose of developing a water and sewer system to serve the Property. In the event a community water and/or sewer system is developed and is subsequently owned, operated, maintained, and improved by the Association, any and all charges for water/sewer services to each Lot shall be paid by the Owner thereof, in addition to any and all Assessments provided for in this Amended and Restated Declaration. A Lot containing one (1) or more acres may have an individual sewer treatment system, provided that such system is approved by and is in compliance with all rules and regulations of all federal, state, county, and local authorities having jurisdiction over the use of such system, and further provided that the use thereof is approved by the Architectural Review Committee.

### ARTICLE XII: RULE MAKING

(a) Subject to the terms and provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Dwellings, Common Areas, and Common Facilities. Particularly and without limitation, the Board of Directors may promulgate from time to time rules and regulations which will govern activities which may, in the judgment of the Board of Directors, be environmentally hazardous, such as the application of fertilizers, pesticides, and other chemicals.

(b) Subject to the terms and provisions hereof, the Board of Directors may establish rules and regulations, fees, and charges from time to time pertaining to use of the recreational areas and amenities as are now and may be hereinafter located in the Common Areas.

## ARTICLE XIII: PROPERTY SUBJECT TO THIS DECLARATION

### Section 1        The Property.

The Property is and shall be held, transferred, sold, conveyed, and occupied subject to this Amended and Restated Declaration.

### Section 2        Phase Development.

The Association, together with its successors and assigns, upon the affirmative vote of two-thirds (2/3) of the Members, shall have the right, which is hereby granted and reserved, to purchase and/or annex any Additional Property to the Property, thereby making such Additional Property a part of Browning Creek, and, by or as a result of such annexation, to subject the annexed Additional Property to the provisions of this Amended and Restated Declaration and to the jurisdiction of the Association. The provisions of this Amended and Restated Declaration shall not affect or apply to any portion of the Additional Property unless and until such portion of the Additional Property is annexed to the Property pursuant to the provisions of Section 3 of this Article XIII.

The Association shall not have the obligation, but only the option, right, and privilege, to annex and/or develop any Additional Property. The Association expressly does not represent, warrant, or guarantee to any Person that any Additional Property will be annexed to the Property or will be developed. By acceptance of a deed conveying any interest in a Lot, each Owner agrees and represents and warrants to the Association that, in purchasing or otherwise acquiring such interest in the Lot, the Owner has not relied on any proposed, current, or future annexation of any Additional Property to the Property or on any development of any portion thereof.

### Section 3        Annexation Procedures.

To annex Additional Property to the Property, as provided by Section 2 of this Article XIII, the Association, through its Board of Directors, shall execute and file for record a Supplement which describes the Additional Property being annexed to the Property, as authorized by a vote of two-thirds (2/3) of the Members as required in Section 2, and the new, amended, or revised description of the resulting enlarged Property. The option, right, and privilege of the Association to annex any Additional Property to the Property is subject to the following provisions:

(a)        The Association, upon the affirmative vote of two thirds (2/3) of the Members, may annex Additional Property or Additional Properties at different times and in any sequence desired by the Association without regard to whether or not the Additional Property being annexed is contiguous or noncontiguous to the Property.

(b)        The Supplement shall extend the provisions and scheme of this Amended and Restated Declaration to the Additional Property being annexed, but the Supplement may contain such complementary additions to, and modifications of, the provisions of this Amended and Restated Declaration as the Association determines to be appropriate or necessary for the different character or use, if any, of any Additional Property being annexed. Such complementary additions and modifications shall not be generally or substantially inconsistent with the provisions of this Amended and Restated Declaration.

Section 4        Effect of Annexation.

Upon the Supplement referred to in Section 3 of this Article XIII being filed for record, the Additional Property described in the Supplement shall be annexed to the Property. Any and all Lots, the Common Area, and the Common Facilities, including any Green Space, of or in the annexed Additional Property shall be subject to the provisions and scheme of this Amended and Restated Declaration and the jurisdiction, functions, duties, obligations, and membership of the Association, including the Charter, the By-Laws, and the rules and regulations promulgated or adopted by the Board of Directors. After annexation of any Additional Property, all Owners of Lots shall be granted the rights to the Property set forth in Article II.

Section 5        No Consent Required.

The Association shall not be required to obtain any consent or approval of any Person, including any Mortgagee, other than two-thirds (2/3) of the Members as provided in Section 2, to annex any Additional Property to the Property. Each Owner, each Mortgagee, and each other Person, including, but not limited to, each grantee, heir or devisee, personal representative, successor, and assign of an Owner, Mortgagee or other Person, by acceptance of any deed or other interest in or with respect to any Lot, including a deed of trust, mortgage or similar encumbrance, shall be deemed to have expressly agreed and consented to (i) each of the provisions of this Article XIII, and (ii) the execution, filing for record, and provisions of any Supplement contemplated by this Article XIII.

ARTICLE XIV: GENERAL PROVISIONS

Section 1        Duration.

The Covenants, Conditions and Restrictions of this Amended and Restated Declaration shall run with and bind the land subject to this Amended and Restated Declaration, and shall inure to the benefit of and be enforceable by the Association and by the Owners of any land subject to this Amended and Restated Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty-five (35) years from the date this Amended and Restated Declaration is recorded in the Office of the Chancery Clerk of Oktibbeha County, Mississippi, after which time said covenants shall be automatically extended for the successive periods of ten (10) years unless an instrument signed by a majority of the Owners has been recorded on the land records in the said office of the Chancery Clerk of Oktibbeha County, Mississippi, agreeing to abolish the Covenants, Conditions and Restrictions of this Amended and Restricted Declaration in whole or a substantial portion thereof; provided, however, that no such agreements to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment.

Section 2        Amendments.

Notwithstanding Section 1 of this Article, the Covenants, Conditions and Restrictions of this Amended and Restated Declaration may be amended, modified, or changed subject to the provisions of Section 8 of this Article, with the consent of at least two-thirds (2/3) of the Members. In each case an amendment shall be evidenced by a document in writing bearing the signatures of the requisite

number of Members, as the case may be, and shall be recorded in the Office of the Chancery Clerk of Oktibbeha County, Mississippi.

Section 3        Enforcement of Declaration.

(a)        Compliance. If any provision of this Amended and Restated Declaration is breached or violated or threatened to be breached or violated by any Owner or other Person, then each of the other Owners and/or the Association, jointly or severally, shall have the right, but not the obligation, to proceed at law or in equity to compel a compliance with, or to prevent the threatened violation or breach of, the provisions of this Amended and Restated Declaration. If any structure or other improvement located on any portion of the Property, including any Lot, violates any provision of this Amended and Restated Declaration, then the Association shall have the right, but not the obligation, to enter upon any portion of the Property, including any Lot, to abate or remove such structure or other improvement at the cost and expense of the Owner of the Lot where such structure or improvement is located or who otherwise causes such violation, if the violation is not corrected by such Owner within thirty (30) days after written notice of such violation. Any Person entitled to file or maintain a legal action or proceeding for the actual or threatened violation or breach of this Amended and Restated Declaration shall be entitled to recover attorney's fees and other costs and expenses attributable to such action or proceeding, and the Association shall be entitled to recover and receive any other amounts specified in Section 8 of Article IV. Any such entry and abatement or removal shall not be, or be deemed to be, a trespass. The failure by any Person for any period of time to enforce any provision of this Amended and Restated Declaration shall not be or be deemed a waiver of the right to enforce, or otherwise bar or affect the enforcement of, any and all provisions of this Amended and Restated Declaration at any time, including any future time.

(b)        Enforcement. This Amended and Restated Declaration shall be enforced by any appropriate proceeding at law or in equity (i) against any Person who breaches or violates, or threatens to breach or violate, any provision of this Amended and Restated Declaration, (ii) to recover damages for any such breach or violation, (iii) to collect any amounts payable by any Owner to the Association under this Amended and Restated Declaration, including Assessments, attorney's fees, costs of collection, late charges, or other costs incurred by the Association to perform or discharge any obligation or duty of any Owner under this Amended and Restated Declaration or otherwise specified in this Amended and Restated Declaration, including Section 8 of Article IV, and (iv) to enforce any lien created by this Amended and Restated Declaration. Enforcement shall also include seeking injunctive relief. There is hereby created and declared to be a conclusive presumption that any actual or threatened violation or breach of this Amended and Restated Declaration cannot be adequately remedied by an action at law exclusively for recovery of monetary damages. Each Owner, by acceptance of a deed of other conveyance document to a Lot, waives and agrees not to assert any claim or defense that injunctive relief or other equitable relief is not an appropriate remedy.

Section 4        Severability.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.

#### Section 5       Headings.

The headings contained in this Amended and Restated Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Amended and Restated Declaration.

#### Section 6       Notices to Member.

Any notice required to be given to any Member under the provisions of this Amended and Restated Declaration shall be deemed to have been properly delivered when deposited in the United States mails, postage prepaid, addressed to the last known address of the person who appears as Member on the records of the Association at the time of such mailing.

#### Section 7       Lender's Notices.

Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor and a particular Owner, Lot, or address, any mortgage holder (including any insurer or guarantor of the note secured by a mortgage) will be entitled to timely written notice of:

- (a) Any condemnation or casualty loss that affects either a material portion of the project or the unit securing the mortgage.
- (b) Any sixty (60) days delinquency in the payment of assessments or charges owed by the Owner of any Lot on which the mortgagee holds the mortgage.
- (c) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action that requires the consent of a specified percentage of mortgage holders.

#### Section 8       Consent of Eligible Mortgage Holders.

The Owners, the Board of Directors, or the Association, by any act or omission, shall not do any of the following things without the prior written consent and approval of the holders of fifty-one percent (51%) of the holders of outstanding Recorded First Mortgages who have requested notice from the Association of any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders:

- (a) Abandon, partition, subdivide, encumber, sell, or transfer any of the Common Area; provided, however, that the granting of rights of way, easements, and the like for public utilities or for other purposes consistent with the use of the Common Area by the Owners shall not be considered an encumbrance, sale, or transfer within the meaning of this subsection;
- (b) Abandon or terminate this Amended and Restated Declaration;
- (c) Modify or amend any material or substantive provision of this Amended and Restated Declaration. A change to any of the following would be considered as material.
  - (i) Voting rights;

- (ii) Assessments, assessment liens, or subordination of assessment liens;
- (iii) Reserves for maintenance, repair, and replacement of Common Areas;
- (iv) Responsibility for maintenance and repairs;
- (v) Reallocation of interests in the Common Areas or Limited Common Areas, or rights to their use;
- (vi) Convertibility of Lots into Common Areas or Common Areas into Lots;
- (vii) Expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project, except as provided by Article XIII;
- (viii) Insurance or fidelity bonds;
- (ix) Leasing of Lots;
- (x) Imposition of any restriction on an Owner's right to sell or transfer his or her Lot;
- (xi) Any provisions that expressly benefit Mortgagees, insurers, or guarantors; or
- (d) Merge or consolidate the Association.

Section 9 Additional Rights of Eligible Mortgage Holders - Notice.

(a) The Association shall promptly notify any Eligible Mortgage Holder on any Lot, which such holder is the holder of a Recorded First Mortgage as to any assessment levied pursuant to the Amended and Restated Declaration, or any installment thereof, which shall become and remain delinquent for a period in excess of sixty (60) days, and the Association shall promptly notify such holder on any Lot as to which there is default by the Owner with respect to performance of any other obligation under this Amended and Restated Declaration which remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any recorded Lot, and the protection extended in this First Mortgage on any Amended and Restated Declaration to the holder of any such mortgage shall not be altered, modified, or diminished by reason of such failure. Also, any failure to give any such notice shall not affect the validity of the lien for any assessment levied pursuant to this Amended and Restated Declaration, nor shall any such failure affect any of the priorities for liens as specified in Article IV hereof.

(b) No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Amended and Restated Declaration except after ten (10) days' written notice to the holder of the Recorded First Mortgage encumbering the Lot which is the subject matter of such suit or proceeding,

(c) Any holder of a Recorded First Mortgage on any Lot upon the Property may pay any taxes, utility charges, or other charges levied against the Common Area which are in default and which may or have become a charge or lien against any of the Common Area. Any holder of a Recorded First

Mortgage who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Owners.

(d) No mortgagee and no beneficiary or trustee under a deed of trust shall become personally liable for or obligated for any unpaid maintenance fund assessment.

(e) No amendment to this Amended and Restated Declaration shall affect the rights of the holder of any Recorded First Mortgage recorded prior to recordation of such amendment who does not join in the execution thereof, except for Supplements annexing Additional Property added pursuant to Article XIII.

(f) The holders, insurers, or guarantors of any Recorded First Mortgage on a Lot who have requested the Association in writing will be entitled to: (i) inspect the books and records of the property during normal business hours; (ii) receive an annual financial statement of the project within ninety days following the end of any fiscal year of the project; (iii) receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings; and (iv) receive current copies of this Amended and Restated Declaration, the By-Laws of the Association, and all other rules and regulations concerning Browning Creek.

#### Section 10 Captions and Gender.

The captions contained in this Amended and Restated Declaration are for convenience only and are not a part of this Amended and Restated Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Amended and Restated Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

#### Section 11 Record of Mortgage.

Any holder of a Recorded First Mortgage shall be entitled to notify the Association that such mortgagee holds a mortgage on a Lot. The Board of Directors shall maintain such information in a book entitled "Holders of Recorded First Mortgages".

#### Section 12 Notices.

Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered forty-eight hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association; provided, however, that notice of meetings need not be mailed by Certified Mail, Return Receipt Requested. Such addresses may be changed from time to time by notice in writing to the Association.

### ARTICLE XV: ASSOCIATION'S RIGHTS AND RESERVATIONS

No provisions in the Charter, By-Laws, or this Amended and Restated Declaration shall limit, and no Owner shall do anything to interfere with, the right of Association exercised in accordance with

Article XI and Article XIII to subdivide or resubdivide any Lot, or to complete improvements or refurbishments (if any) to and on the Common Area, Green Space, or any portion of the Property owned by Association or to alter such improvements or refurbishments or the construction plans and designs, or to construct such additional improvements or add future phases in the course of development of Browning Creek, pursuant to Article XIII, Section 2 of this Amended and Restated Declaration, as the Association deems advisable in the course of development of the Property. This Amended and Restated Declaration shall not limit the right of the Association at any time prior to acquisition of title to a Lot by a purchaser from the Association to establish on that Lot, Common Areas, additional licenses, easements, reservations and rights of way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the property.

## ARTICLE XVI: SPECIAL PROVISIONS CONCERNING LAKE RETREATS SUBDIVISION

### Section 1 Introduction.

Notwithstanding any other provisions to the contrary in this Amended and Restated Declaration, the provisions of this Article XVI shall apply to the Lots, and only to the Lots, in Lake Retreats Subdivision, a subdivision in the Browning Creek development. All references in this Article XVI to Lake Retreats Subdivision shall include Lake Retreats Subdivision, Phase 1 (including any platted revisions to the original plat thereof); Lake Retreats Subdivision, Phase 2; and Lake Retreats Subdivision, Phase 3. All references in this Article XVI to the Board of Directors shall be the Board of Directors of Browning Creek Owners Association, Inc., a Mississippi nonprofit corporation whose Members are the owners of all Lots in the Browning Creek development. The Board of Directors is defined in Article I, paragraph (d) of this Amended and Restated Declaration.

### Section 2 Additional Assessment.

In addition to the annual maintenance assessments, road assessments, and special assessments charged to all Lot owners in the Browning Creek development, each owner of a Lot in Lake Retreats Subdivision shall be charged and assessed an additional assessment for services that are provided exclusively to owners of Lots in Lake Retreats Subdivision, including (1) the upkeep and maintenance of lighting and landscaping in the Common Areas of Lake Retreats Subdivision, as those Common Areas are designated on the plats of Lake Retreats Subdivision; (2) the mowing of Lots and Common Areas in Lake Retreats Subdivision; and (3) the maintenance and repair of improvements located in Lake Retreats Subdivision, including, but not limited to, the sewer lift stations and the gazebo. Provided, however, that all other expenditures for the benefit of owners of Lots in Lake Retreats Subdivision, including road repair, culvert and drainage maintenance, and maintenance of easements in Lake Retreats Subdivision, shall be paid from funds generated by the annual assessment against all Lot owners in Browning Creek.

### Section 3 Lake Retreats Board and Additional Assessment.

The Lake Retreats Board shall consist of five (5) Members who are owners of Lots in Lake Retreats Subdivision. Lake Retreats Board members shall be elected for three (3) year terms and shall serve until their successors shall be elected and qualified in accordance with the provisions of this Section 3. To provide for continuity of management, Lake Retreats Board members shall serve staggered

terms. Upon the effective date of this Amended and Restated Declaration of Covenants, Restrictions, and Conditions, one Lake Retreats Board member shall be elected for an initial term ending December 31, 2016, two Lake Retreats Board members shall be elected for a term ending December 31, 2017, and two Lake Retreats Board members shall be elected for a term ending December 31, 2018. Lake Retreats Board members shall thereafter be elected for full three-year terms. Lake Retreats Board members may be elected to successive terms, but may not serve more than two terms in succession. Provided, however, that the term ending December 31, 2016, shall not be counted in the restriction to two successive terms. In the event of death or resignation of a Lake Retreats Board member, the remaining Lake Retreats Board members shall select an owner of a Lot in Lake Retreats Subdivision to fill the unexpired term.

Prior to January 1 of each year, the Lake Retreats Board shall select the Lake Retreats Board members to serve the term beginning that January 1 from a list of Members nominated by the Owners of Lake Retreats Lots. At the first meeting of the Lake Retreats Board on or after January 1, the Lake Retreats Board shall elect a President, Vice President, Secretary, and Treasurer, and shall further establish the additional assessment provided for in Section 2 above and provide for the expenditure of all funds generated by that additional assessment.

The Lake Retreats Board shall develop the annual budget for Lake Retreats Subdivision and submit the same to the Board of Directors of the Association for approval or disapproval of the total revenue and total expenditures, the line items of the budget being solely within the discretion of the Lake Retreats Board. Provided, however, that the expenditures shall not affect the remaining portions of the budget for the Association adopted by the Board of Directors.

The Board of Directors of the Association shall impose the additional assessment established by the Lake Retreats Board and, through its Management Agent, give notification of, and collect, that additional assessment. The additional assessment amount shall not be increased by more than five percent (5%) for any one calendar year, and the additional assessment amount shall not be increased during any five calendar years by more than twenty percent (20%) over the additional assessment made during the year before the five-year period began. For the 2016 calendar year, the additional assessment for Lots containing established residences shall be \$196.00 per quarter, or \$784.00 per year, which sums shall be the base amounts upon which any future increases in assessments shall be calculated.

#### Section 4       Decreases or Reserve Fund.

Upon recommendation by the Lake Retreats Board, and upon approval by the Board of Directors, the additional assessment for a particular year may either (1) be decreased if the funds available to provide additional services to Lake Retreats Subdivision exceed the amounts spent for Lake Retreats Subdivision during the prior calendar year, or (2) be held in reserve in a Lake Retreats Subdivision Reserve Fund.

#### Section 5       Special Assessment.

In addition, a special assessment over and above the additional assessment for services may be made against any owner of a Lot and/or residence in Lake Retreats Subdivision who fails properly to maintain his or her Lot and/or residence, and such failure results in additional costs to the Association

for the maintenance and upkeep of the Lot and/or exterior of the residence thereon. A special assessment not to exceed \$250.00 in any one calendar year may also be made against all owners of Lots and/or residences in Lake Retreats Subdivision upon approval of the Lake Retreats Board.

Section 6        Responsibilities of Owners.

The Owner of each residence in Lake Retreats Subdivision shall be responsible for all maintenance and repair of his residence, including but not limited to electrical, plumbing, and foundation repair; painting; and maintenance and repair of gutters.

Section 7        Setback Requirements.

There shall be no front setback, rear setback, side setback, or side Lot line setback requirements for Lots in Lake Retreats Subdivision except for such setback requirements which may be shown for particular Lots on recorded Lake Retreats Subdivision plats.

Section 8        Site Plan.

All site plans for development of any Lot in Lake Retreats Subdivision must be approved by the Architectural Review Committee appointed by the Board of Directors before any work or construction may be done on that Lot in Lake Retreats Subdivision, as more particularly described in Article VIII of this Amended and Restated Declaration.

Section 9        Architectural Approval.

All plans and specifications for construction or renovation of residences or other improvements in Lake Retreats Subdivision shall be approved by the Architectural Review Committee appointed by the Board of Directors, as more particularly described in Article VIII of this Amended and Restated Declaration. Except as provided herein, the Architectural Review Committee shall have absolute control and authority (1) in regard to materials used in construction or renovation of a residence in Lake Retreats Subdivision and (2) over the site plan and design specifications of any residence being constructed or renovated on a Lot in Lake Retreats Subdivision. The Architectural Review Committee shall not approve any submitted site plan or design plans and specifications that do not conform exactly to the overall development scheme and plan of Lake Retreats Subdivision. Provided, however, that any Lot owner shall have the right to appeal a decision of the Architectural Review Committee to the Board of Directors, which may approve, disapprove, or modify the decision of the Architectural Review Committee.

Section 10       Minimum Square Footage for Residences.

There shall be a minimum square footage of 1,600 square feet for a residence, house, or unit constructed on a Lot in Lake Retreats Subdivision.

Section 11       Common Area.

Those areas designated as Common Areas on the plats of Lake Retreats Subdivision are for the sole and exclusive benefit of the owners of Lots in Lake Retreats Subdivision and for no one else.

## Section 12       Easements.

Each Lot owner in Lake Retreats Subdivision shall have a non-exclusive easement over and across all roadways, as shown on the plats of Lake Retreats Subdivision, for both vehicle and pedestrian ingress and egress. Additionally, each Lot owner in Lake Retreats Subdivision shall have a non-exclusive easement for vehicular ingress and egress over all roadways in the Browning Creek development, as such may be presently or subsequently laid out and developed. The Association, as defined in Article I, paragraph (c) of this Amended and Restated Declaration, shall have and retain an easement over and across all Lots in Lake Retreats Subdivision for the purpose of maintenance, repair, and upkeep of all utilities and drainage and for maintenance and repair of any residence, as authorized by the Board of Directors, and in accordance with any applicable provisions set forth in other Articles of this Amended and Restated Declaration. In addition, any utility company operated by the Association shall also have a non-exclusive easement across all lots in Lake Retreats Subdivision for ingress and egress for the purpose of maintenance and upkeep of all utilities serving Lake Retreats Subdivision.

## Section 13       Rentals.

Except as provided herein, there shall be no short-term rental (i.e., rental for less than one year) of any residence in Lake Retreats Subdivision. Provided, however, that an exception to this provision may be approved by the Lake Retreats Board. No residence in Lake Retreats Subdivision shall be rented to undergraduate college or university students, or used for the housing of such students, for any period of time.

IN WITNESS WHEREOF, at least seventy-five percent (75%) of the Owners have signed this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek, as evidenced by their signatures on the signature pages attached hereto and made a part hereof, thereby approving this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek and placing this document (once recorded on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi) in full force and effect.

STATEMENT BY  
BROWNING CREEK DEVELOPMENT, INC.  
APPROVING, CONSENTING TO, AND JOINING IN  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, Browning Creek Development, Inc., a Mississippi corporation, was the original developer of Browning Creek a residential community and development in Oktibbeha County, Mississippi; and

WHEREAS, Browning Creek Development, Inc., as Declarant, declared and executed that certain document entitled Declaration of Covenants, Conditions and Restrictions for Browning Creek, which document was dated April 29, 1997; was filed of record in the office of the Chancery Clerk of Oktibbeha County, Mississippi, on April 30, 1997; and was recorded in Book 919, at Pages 331-397, on the land records in the office of the Chancery Clerk of Oktibbeha County, Mississippi ("Original Declaration"); and

WHEREAS, in the Original Declaration Browning Creek Development, Inc., as Declarant, provided and/or reserved unto itself various rights, privileges, and benefits; and

WHEREAS, Browning Creek Development, Inc., having overseen the development of Browning Creek, no longer owns any property in Browning Creek and no longer needs to, or wishes to, exercise any rights as Declarant under the Original Declaration; and

WHEREAS, many provisions of the Original Declaration, particularly those providing and/or reserving unto Browning Creek Development, Inc., as Declarant, various rights, privileges, and benefits, are outdated and are no longer applicable; and

WHEREAS, at least seventy-five percent (75%) of the owners of lots in Browning Creek have adopted and approved; or will adopt and approve, an Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek ("Amended Declaration") in accordance with the amendment provisions of the Original Declaration; and

WHEREAS, the Amended Declaration eliminates those provisions providing and/or reserving unto Browning Creek Development, Inc., various rights, privileges, and benefits; and

WHEREAS, Browning Creek Development, Inc., as the Declarant under the Original Declaration, is agreeable to, approves, supports, and consents to the Amended Declaration; and

WHEREAS, Browning Creek Development, Inc., as the Declarant under the Original Declaration, wishes formally and in writing to announce and state its agreement to, approval of, support of and consent to the Amended Declaration; and

NOW, THEREFORE, Browning Creek Development, Inc., a Mississippi corporation, the developer of Browning Creek and the Declarant under the Original Declaration, acting by and through its

undersigned President, William C. Randle, Jr., hereby agrees to, approves, consents to, supports, and joins in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek and further consents to this Statement being added to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Browning Creek when that document is filed of record in the office of the Chancery Clerk of Oktibbeha County, Mississippi.

This is the 8th day of March, 2016.

Browning Creek Development, Inc.

A Mississippi Corporation

By: William C. Randle, Jr.

President