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DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
DOGWOOD PLACE TOWNHOMES  
AND BY-LAWS FOR DOGWOOD PLACE TOWNHOMES OWNERS' ASSOCIATION

This Declaration is made this 30th day of March, 2000, by W & S Properties, Inc., a Georgia corporation, (sometimes hereinafter referred to as "Developer").

Developer is the owner of certain real property as shown on plat of record in Plat Book 17, Pages 51 and 52, in the Office of the Clerk of the Superior Court of Catoosa County, Georgia, and has created a residential community known as Dogwood Place Townhomes with Common Properties for the benefit of the community; and

Developer desires to provide for the preservation of values and amenities in the community and for the maintenance and upkeep of said Common Properties and to this end, desires to subject the real property described in Article II hereof to the covenants, restrictions, easements, affirmative obligations, charges, and liens, hereinafter set forth, each and all of which is and are hereby declared to be for the benefit of the property and each and every Owner of any and all parts thereof; and

Developer has deemed it desirable, for the efficient preservation of the values and amenities in the community, to delegate and assign to the Owners of the Lots of Dogwood Place Townhomes the power and authority of maintaining and administering the Common Properties and administering and enforcing the covenants and restrictions governing the same and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement, as hereinafter created; and

Developer herein establishes an association to be called Dogwood Place Townhomes Owners' Association, for the purpose of exercising the above functions and those which are more fully set out hereafter;

## DECLARATION

Now, therefore, the Developer subjects the real property described in Article II hereof, to the terms of this Declaration and declare that the same is and shall be held, transferred, sold, conveyed, leased, occupied, and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens (sometimes referred to as "the Covenants") hereinafter set forth.

### ARTICLE I

#### DEFINITIONS

The following words and terms, when used in this Declaration or any supplemental Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

1.01 Association. "Association" shall mean Dogwood Place Townhomes Owners' Association.

1.02 Board of Directors. "Board of Directors" or "Board" shall mean the governing body of the Association established and elected pursuant to this Declaration.

1.03 Common Expense. "Common Expense" shall mean and include (i) expense of administration, maintenance, repair or replacement of the Common Properties; (ii) expenses agreed upon as Common Expenses by the Association; (iii) expenses declared Common Expenses by the provisions of this Declaration; and (iv) all other sums assessed by the Board pursuant to the provisions of this Declaration.

1.04 Common Properties. "Common Properties" shall mean those easements and common and mutual appurtenances which are shown Exhibit "A" attached hereto and on the recorded plat and easements appurtenant thereto and required to be maintained by the Association, and are intended for the common use and benefit of all Owners. Common Properties include but are not limited to a common 10 foot fence easement, common sign easement and pedestrian easements as shown on Exhibit "A".

1.05 Covenants. "Covenants" shall mean the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens set forth in this Declaration.

1.06 Declaration. "Declaration" shall mean this Declaration of Covenants and Restrictions for Dogwood Place Townhomes and By-Laws for same and any supplemental declaration filed pursuant to the terms hereof.

1.07 Developer. "Developer" shall mean W & S Properties, Inc., a Georgia corporation.

1.08 Dwelling Unit. "Dwelling Unit" shall mean a townhome situated upon the Properties designated and authorized for use and occupancy by a single family.

1.09 Existing Land. "Existing Land" shall mean the real property described in Article II hereof.

1.10 First Mortgage. "First Mortgage" shall mean a recorded Mortgage with priority over all other mortgages.

1.11 First Mortgagee. "First Mortgagee" shall mean a beneficiary, creditor or holder of a First Mortgage.

1.12 Lot or Lots. "Lot or Lots" shall mean any improved or unimproved plat of land shown as a Lot upon any recorded map of any part of the Properties.

1.13 Member or Members. "Member or Members" shall mean any or all Owner or Owners who are Members of the Association.

1.14 Mortgage. "Mortgage" shall mean a deed of trust, as well as a Mortgage.

1.15 Mortgagee. "Mortgagee" shall mean a beneficiary, creditor or holder of a Security Deed, as well as a holder of a Mortgage.

1.16 Owner or Owners. "Owner or Owners" shall mean the recorded Owner or Owners, whether one or more persons, firms, associations, corporations, or other legal entities, of the fee simple title to any Lot situated upon the Properties but, not withstanding any applicable theory of a mortgage, shall not mean or refer to the Mortgagee, unless and until such Mortgagee has acquired title pursuant to foreclosure, nor shall the term "Owner" mean or refer to any lessee or tenant of any Owner. The Developer may be an Owner.

1.17 Property or Properties. "Property or Properties" shall mean the Existing Land which is subject to this Declaration or any supplemental declaration under the provisions hereof.

1.18 Record or To Record. "Record or To Record" shall mean to record pursuant to the laws of the State of Georgia relating to the recordation of deeds and other instruments conveying or affecting title to real property.

## ARTICLE II

PROPERTIES, COMMON PROPERTIES  
AND IMPROVEMENTS THEREON

2.01 Existing Land. The real property which is, and shall be held, transferred, sold, conveyed, leased and occupied, subject to these Covenants, is located in Catoosa County, Georgia, and is more particularly described as follows:

Lots One (1) through Sixty-three (63), inclusive, Dogwood Place Townhomes, Phase One, as shown by plat of record in Plat Book 17, Pages 51 and 52, in the Office of the Clerk of the Superior Court of Catoosa County, Georgia.

2.02 Common Properties and Improvements Thereon. Being easements appurtenant to the Lots in Dogwood Place Townhomes, Phase One, as shown on Exhibit "A" attached hereto and plat of record in Plat Book 17, Pages 51 and 52, in the Office of the Clerk of the Superior Court of Catoosa County, Georgia. Common Properties include but are not limited to, a common 10 foot fence easement (and common fence thereon), common sign easement (and common sign thereon) and pedestrian easements as shown on Exhibit "A".

(A) The Board may, with a simple majority vote, improve the Common Properties with such other improvements as they deem desirable.

## ARTICLE III

## ASSOCIATION

3.01 Membership. Every person or entity who is a record Owner of a fee simple interest in any Lot which is subject to this Declaration shall be a Member of the Association, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a Member of the Association. Membership shall automatically be transferred to the new Owner upon the conveyance of any Lot and recording of the Deed of Conveyance in the Office of the Clerk of the Superior Court of Catoosa County, Georgia, plus, payment of any Association initiation fees, assessments, or dues. Membership shall be appurtenant to ownership of any Lot which is subject to assessment.

3.02 Voting Rights. The Association shall have one class of voting membership.

(A) Lot Owners shall have full voting privileges at the Annual Association Meeting concerning all Common Properties, improvements, changes to this Declaration, changes of the Board of Directors, President of the Association, Vice

President of the Association, Secretary-Treasurer, and any interest concerning the Association. Occupants who are not an Owner of a Lot shall have no vote or voice in the affairs of the Association.

In no event shall more than one vote be cast with respect to any Lot. When an Owner signs a proxy such vote shall be counted when such proxy is in a written instrument delivered to the Secretary of the Association before the vote is counted. Any Owner who owns multiple lots shall have one (1) vote for each lot owned.

#### ARTICLE IV

##### THE BOARD OF DIRECTORS AND OFFICERS

4.01 Board of Directors. The administration of the Property on behalf of the Association shall be conducted by a Board of Directors ("Board") which shall consist of 6 natural persons of legal age, each of whom shall be a Member in good standing of the Association, and will maintain such representation during membership on the Board.

4.02 Initial Board of Directors. The Developer shall act as the Board of Directors during the first 24 months following the date of this Declaration or until all units or Lots in Dogwood Place Townhomes have been sold by Developer, whichever occurs last. The Developer shall have all powers and authority to act which are granted to the Board of Directors in this Declaration. However, notwithstanding any provision herein to the contrary, Developer shall have the right to terminate its obligations as initial Board of Directors at any time upon giving notice of its intent to do so to all Owners and upon the election of the first Board of Directors and Officers as provided in this Declaration. Notwithstanding any provision of this Declaration to the contrary, as long as Developer is acting as the Initial Board of Directors, Developer shall have the absolute power and right to amend, change, or alter the provisions of this Declaration.

4.03 Election. At each annual meeting, subject to the provisions of Section 4.13 hereof, the Association shall elect those members of the Board, President, Vice-President, and Secretary-Treasurer as required under Sections 4.03 and 4.04 who shall serve the terms set out under Section 4.03; provided, however, the members of the Board elected to succeed the prior elected officers may be elected at a special meeting duly called and specifically called for that purpose by the Board, the Board elected at that special meeting to serve until the first annual meeting of the Association held thereafter. Three members of the board shall be elected every other year. The President shall be elected in alternating years with the Vice-President.

4.04 Term. Members of the Board shall serve for a term of one year. Three members shall be elected every other year. The Members of the Board, President, Vice-President and Secretary-Treasurer shall serve until their respective successors are duly elected and qualified, or until their death, resignation or removal. The President, Vice-President and Secretary-Treasurer shall serve for a term of two years.

4.05 Resignation or Removal. Any member of the Board, President, Vice-President, and Secretary-Treasurer may resign at any time by giving written notice to the President or Vice-President should the resigning member be the President. Any member of the Board or elected officer may be removed from elected office by a two-thirds (2/3) affirmative vote of the Association except that a vacancy on the Board shall be deemed to exist in the event of the death of a member, the disability of a member which, in the opinion of the majority of the Board, renders such member incapable of performing his elected duties, or in the event a member shall cease to be a Member of the Association. Whenever there shall occur a vacancy on the Board for any reason, the remaining Board members shall elect a successor member to serve until the next annual meeting of the Association or a Special Meeting is called for filling vacancies at which time said vacancy shall be filled by the Association for the unexpired term.

4.06 Compensation. The members of the Board and elected officers shall receive no compensation for their services unless expressly provided for by the Association but shall be reimbursed for reasonable expenses incurred by them in the performance of their duties.

4.07 Powers and Authority of the Board. The Board and elected officers, for the benefit of the Property and the Association shall enforce the provisions of this Declaration, these By-Laws, and Rules and Regulations governing the Property. Subject to any provision herein, the Board and elected officers shall have the power and authority to acquire and pay for the following, which shall be deemed Common Expenses of the Association:

(a) Water, sewer, electrical, lighting, and other necessary utilities for the Common Properties and Property.

(b) Legal and accounting services necessary or advisable in the operation of the Common Properties and Property and the enforcement of this Declaration, these By-Laws, and any rules and regulations made pursuant thereto.

(c) Painting, maintenance, repair, replacement and landscaping of the Common Properties and Property. The Board shall also have the right from time to time to acquire and dispose of by sale or otherwise and without the

necessity of approval by any Owner, furnishings and equipment and other personal property for the Common Properties and to provide maintenance, repair and replacement thereof. And shall include the maintenance of the common fencing, common sign, lighting, shrubs, grass, and creek areas.

(d) Any other materials, supplies, labor, services, maintenance, repairs structural alterations, insurance, taxes or assessments that the Board is required to secure or pay for pursuant to the terms of this Declaration, these By-Laws or any Rules or Regulations promulgated or which, in its opinion, shall be necessary or advisable for the operation of the Common Properties and Property or for the enforcement of this Declaration, these By-Laws, or the Rules and Regulations.

The Board shall have the exclusive right to contract for all goods, services, including security, and insurance, payment for which is to made from Common Expenses.

4.08 Additional Powers of the Board. The Board shall have the right to acquire, operate, lease, manage, trade and otherwise deal with the Common Properties as may be necessary or convenient in the operation and management of the Common Properties, and in accomplishing the purposes set forth herein.

4.09 Meetings of the Board. Meetings of the Board shall be held at such places within the State of Georgia as the Board shall determine at least once per quarter. Three members of the Board, which shall include the President or Vice-President, and the Secretary-Treasurer (or his appointee from the Board) shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board. Meetings of the Board shall be chaired by the President or Vice-President of the Association and the minutes shall be recorded by the Secretary-Treasurer of the Association (or an appointee of the Board). Any action required to be or which may be taken by the Board may be taken without a meeting of the Board pursuant to a written consent, setting forth the action so taken, signed by a majority of the members of the Board.

4.10 Special Meetings. Special meetings of the Board may be called by the President of the Association or by any two Board members.

4.11 Notice of Meetings. Regular meetings of the Board may be held without call or notice. The person or persons calling a

special meeting of the Board shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication to all Board Members. Such notice need not specify the purpose for which the meeting is called. If an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

4.12 Waiver of Notice. Any members of the Board may, at any time, waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance of any member of the Board at any meeting thereof shall constitute a waiver of notice of such meeting unless a Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called and does so object by delivering a written document to that effect.

4.13 Fiscal Year. The fiscal year shall be determined by the Board.

4.14. Special Committees. Special Committees shall be appointed by the President. The Board shall have rights to call for the formation of committees by motion.

4.15 Rules and Regulations. The Board shall have the power and right to adopt and amend rules and regulations for the purpose of governing details of the operation and use of the Common Properties and setting forth restrictions on, and requirements respecting the use and maintenance of the Common Properties. Copies of the Rules and Regulations shall be furnished to each Owner prior to the time the same shall become effective.

4.16 Limitation on Capital Additions, Etc. Except as permitted in Article 4.07(e) and Article XI, the Board shall authorize no structural alterations, capital additions to, or capital improvements of the Common Properties, any of which require an expenditure in excess of \$1,000.00 Dollars without approval of the majority vote of the Association; provided, however, that the Board shall have the power to make any such structural alterations, capital additions to, or capital improvements of, the Common Properties as are necessary, in the Board's reasonable judgement, to preserve or maintain the integrity thereof without obtaining such approval, if in the opinion of the Board an emergency exists upon which should be corrected before a meeting of the Association could be reasonably called and held.

4.17 Failure to insist on Strict Performance Not Waiver. The failure of the Board or its agents to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions in this Declaration, or the



By-Laws or the Rules and Regulations or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future, of such terms, covenant, condition or restriction, right, option or notice; but such term, covenant, condition or restriction, right, option or notice shall remain in full force and effect.

#### ARTICLE V

#### THE ASSOCIATION; MEETINGS, OFFICERS, ETC.

5.01 Quorum. The presence in person or by proxy at any meeting of the Association of two-thirds (2/3) of the Owners of Lots subject to assessment in response to notice to all Owners properly given in accordance with Sections 5.02 or 5.03 of the By-Laws, as the case may be, shall constitute a quorum. Unless otherwise expressly provided in this Declaration, any action may be taken at any meeting of the Association upon the affirmative vote of persons entitled to cast a two-thirds (2/3) majority of the votes which are represented at such meeting. Proxy vote representation shall be recognized and counted, should members not submit a proxy then a vote "For" the recommendation of the Board will be assumed.

5.02 Annual Meeting. There shall be an annual meeting of the Association on the First Monday of September at 6:00 o'clock pm at the Dogwood Place Townhomes or at any place or time (but not more than thirty (30) days before or after such date) so designated by the Board. The Secretary-Treasurer shall present a review of the expenses for the prior year and a budget for the coming year or any pertinent actions passed by the Board.

5.03 Special Meeting. Special meetings of the Association may be held at any time and at any reasonable place to consider matters which require the approval of all or some of the Owners, or for any other reasonable purpose. Special meetings shall be called by a majority of the Board, or at least by one-third (1/3) of the Owners by written notice, delivered to all owners not less than fifteen (15) days prior to the date fixed for said meeting. The notice shall contain matters to be considered.

5.04 Parliamentary Rules. Robert's Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with this Declaration or other such rules adopted by the Board.

5.05 Officers. The Officers of the Association shall be a President, Vice-President, and Secretary-Treasurer. Each officer