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**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS AND RESERVATION OF EASEMENTS FOR  
HADFIELD**

**This Declaration, made effective as of this 12<sup>th</sup> day of March 1987, by Monarch Developments of Georgia, Inc., a Georgia Corporation, hereinafter referred to as "Declarant".**

**WITNESSETH:**

WHEREAS, Declarant as of the effective date hereof was the owner of certain real property lying and being in Land Lots 1295 and 1296, 2<sup>nd</sup> District, 2<sup>nd</sup> Section of Fulton County, and being this reference made a part hereof.

WHEREAS, Declarant is the developer and sub divider of the Property and desires to create thereon a residential community and incident thereto provide for inclusion and construction and development by Declarant of a clubhouse and other common facilities for the benefit of the community: and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities and for the maintenance of any such common facilities, service and properties so developed and provided to the community: and to this end, Declarant desires to subject the Property, together with such other additional property as may hereafter be made subject to this Declaration, to the covenants, restrictions, easements, agreements, charges and liens hereinafter set forth, each and all of which is for the protection and benefit of the Property and

each and every owner of any and all parts thereof: and each of which shall inure to the benefit of and run with the Property: and

WHEREAS, Declarant deems it desirable, to carry out the purposes herein stated, to create an agency to which can be delegated and assigned the power and authority of maintaining and administering the provisions herein stated 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

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Georgia, a non-profit corporation, Homeowners Association of Hadfield, Inc., hereinafter referred to as the "Association" which, as a beneficiary of this Declaration shall have the power and responsibility to administer and enforce the provisions of this Declaration and to collect and disburse the assessments and charges hereinafter created, and shall have the other powers and responsibilities set forth in the Association's Articles of Incorporation and Bylaws, as amended from time to time.

NOW, THEREFORE, Declarant declares that the Property, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied, and used subject to the covenants, restriction, conditions, easements, agreements, charges and liens (sometimes referred to as the "covenants and restrictions") hereinafter set forth. Every grantee of any interest in any lot or real property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance of such interest, whether or not such deed or other conveyance shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take subject to this Declaration and to all the terms and conditions hereof and shall be deemed to have assented to all of said terms and conditions.

## **ARTICLE I**

### **Definitions**

Section 1. The following words when used in this Declaration or any supplemental Declaration (unless the context shall prohibit or shall clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to the Homeowner's Association of Hadfield, Inc., a Georgia non-profit corporation. (b) "Properties" shall mean and refer to the Property and additions thereto as are subject to this Declaration or any supplemental Declaration under the provisions hereof. (c) "Common Properties" shall mean and refer to those tracts of land and any improvements

thereon which from time to time may be deeded or leased to the Association by the Declarant and designation in said deed or lease as "Common Properties" and intended by the Declarant to be devoted to the common use and enjoyment of the owners of the Properties, including but not being limited to, recreation area and clubhouse facilities, swimming pool, tennis courts, parks and private

roadways and walkways. The term "Common Properties" shall also include any personal property conveyed to or acquired by the Association. If said property is designated as "Common Property". All Common Properties are to be devoted to or intended for the common use and enjoyment of the owners, their families, and to the extent permitted by the Board of Directors of the Association, to guests of the owners, persons occupying residences of owners or a guest on tenant basis and visiting members of the general public, all as subject to the fee schedules and operating rules adopted by the Association: provide however, that any lands which are leased by the Association for use as Common Properties, shall lose their character as Common Properties upon the expiration of such lease unless such lands are acquired by the Association. Neither the inclusion herein of a definition of "Common Properties" nor any references in the Declaration applicable to Common Properties shall be deemed to constitute an express or implied obligation on the part of the Properties. The Declarant shall retain the right in its sole discretion to determine what Common Properties, if any, it will construct and deed or lease to the Association. (d) "Lot" shall mean and refer to any plot of land and shown as a

numbered parcel on any final recorded plat of survey of the Properties with the exception of Common Properties as heretofore defined. (e) "Owner" shall mean and refer to the record owner, whether one or

more persons or entities, of the fee simple title to any Lot situated upon the Properties but, notwithstanding any applicable theory of any security deed, deed to secure debt, or mortgage encumbering any Lot, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assignee, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure. (f)

"Member" shall mean and refer to those persons who are members of the Association as provided in Article III hereof provided, however, there shall be no more than two members of any Lot as determined by a vote of the owners of each Lot. (g) "Family" shall mean (1) a group of natural persons related to each other by a blood or legally related to each other by marriage or adoption, or (2) a group of not more than three persons not all so related, who maintain a common household in a residence on a Lot. (h) "Improvement" shall mean all structures and appurtenances thereto of every type and kind, including but not

limited to buildings, walkways, garages, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping hedges, windbreaks, plantings, planted trees, shrubs, poles, signs, and exterior air conditioning equipment. (i) "Declarant" shall mean and refer to Monarch Developments of Ga.,

Inc., a Georgia business corporation, together with those successors in title thereto who come to stand in the same relation to the Properties as its predecessor did, provided that such successor in title is designated in writing by its predecessor as a successor in title to the rights of the Declarant hereunder. (j) "Builder" shall mean and refer to any Owner responsible for the construction of a single family residence on a Lot for resale to others and shall not include an Owner building such improvements for his, her, or its own use as a residential dwelling.

**ARTICLE II** Property subject to the  
Declaration:  
Additions Thereto

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject this Declaration is more particularly described as in Exhibit "A".

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) Additions by Declarant. The Declarant, its successors and assigns, shall have the right, without further consent to the Association to bring within the plan and operation of this Declaration, all or any part of the property described on Exhibit "B" attached hereto and made a part hereof. (b) Other Additions. Upon approval in writing of the Association

pursuant to three-fourths of a vote of the members present at a duly called meeting, the owner of any property who desires to add additional property to the plan of these covenants and to subject it to the jurisdiction of the Association, may file for record a supplementary declaration of covenants and restrictions with respect to the additional property which shall extend the operation and effect of the covenants and restrictions of the Declaration to such additional property. The supplementary declaration may contain such complementary additions and modification of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the judgment of the Association, to reflect the different

character, if any, of the added Properties but such modifications shall have no effect on any property covered by this Declaration prior to the recording of such supplementary declaration.

### **ARTICLE III Membership and Voting Rights of the Association**

#### **Section 1. Membership**

(a) Every person or entity who is a record owner of a fee simple estate, or a life estate, 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 interest merely as a security for the performance of an obligation shall not be a member, and further provided that there shall be no more than two Members for any Lot, said two memberships to be as determined by a vote of the Owners of any jointly owner Lot. Membership shall be automatic and shall be appurtenant to and may not be separated for ownership of any Lot. (b) The Association shall have the right to grant additional individual memberships in the Association upon payment to the Association of an initiation fee for each such membership in such amount as set by the Board of Directors of the Association. Said additional memberships shall be subject to such dues and assessments, and to the use of the Common Properties, as determined from time to time by the Board of Directors of the Association. (c) The Declarant has granted optional membership to record Owners of lots in the Hampstead Subdivision comprising seventeen (17) lots in Cobb County. Lot owners in Hampstead Subdivision shall have the right annually to the use of the community facilities in Hadfield upon payment of the current membership fee and any special use fees as may be in effect as described in Section 2, Article V.

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

Class A. Class A Members shall be those Owners as defined in Section 1 with the exception of the Declarant. Class A Members shall be entitled to vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interest in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot, and further provided that no more than two Members for any Lot be entitled to the use of the Common Properties.

Class B. Class B Members shall be the Declarant. The Class B Members shall be entitled to the same number of votes provided that Class B memberships shall cease at such time as the Declarant holds less than one (1%) percent of the total number of votes held by all Members of the Association excluding the votes of the Declarant as Class B Members and only counting the Declarant votes as Class A Members: provided however, in no event shall Class B membership cease to exist prior to December 31, 1990, unless Declarant chooses to abolish Class B membership at some earlier date. At such time as Class B membership ceases to exist, the Declarant shall remain Class A Members as to each Lot then owned by the Declarant.

Section 3. Meetings of the Membership. All matters concerning meetings of the Members of the Association, including the time within which the matter which notice of any of said meetings shall be given to Members and the quorum required for the transaction of business at any meetings, shall be as specified in the Articles or Bylaws of the Association, as amended from time to time, and by law.

#### **ARTICLE IV Property Rights in the Common Properties**

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be pertinent to and shall pass with the title of every Lot. (Such right being limited to such Member's family.)

Section 2. Title to Common Properties. The Declarant may retain the legal title to the Common Properties or any improvements thereon have been completed and until such time as, in the opinion of the Declarant, the Association is able to maintain the same. The Declarant hereby covenants that to the extent it shall convey any such Common Properties to the Association, they shall be free and clear of all liens and encumbrances unless such encumbrances shall be accepted and approved by the Association, pursuant to a three-fourths majority vote of its Members excluding any votes by Declarant.

Section 3. Extent of Member' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remain unpaid, and for any period not to exceed 60 days for any infraction of its published rules and regulations: and (b) The

right of the Association to charge reasonable admission and other fees for the use of the Common Properties: and (c) The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members, provided that no such dedication or transfer, or determination as to the purposes or as to the condition thereof, shall be effective unless an instrument signed by the Members entitled to cast three-fourths of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action there under is sent to every Member at least 30 days in advance of any action taken: and

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(d) The right of the Association, as provided in its Articles and Bylaws to publish and enact reasonable rules governing the use of the Common Properties.

#### **ARTICLE V** Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each owner shall by acceptance of a deed, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association:

(a) Annual assessments or charges: (b) Special assessments or charges for the purposes set forth in Section 4  
of this Article V, such assessments to be fixed, established and collected from time to time as hereinafter provided.

Such annual and special assessments together with such interest thereon and costs of collection therefore as hereinafter provided, shall be a charge and continuing lien on the real property and improvements thereon against which each such assessment is made. Each such assessment, together with such interest thereon and the cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is Owner of such real property at the time when the assessments first become due and payable. In the case of co-ownership of any Lot, all of such

co-owners shall be jointly and severally liable for the entire amount of the assessments.

Should the Association be required to employ an attorney to collect any assessments it shall be entitled to collect in addition thereto all costs of collection including reasonable attorneys fees.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners and residents in the Properties and in particular for the acquisition, improvement, repair, replacement, maintenance and operation of the Common Properties and to pay for the services which the Association is authorized to provide including, but not limited to, the payment of taxes and insurance thereon, construction of improvement, repairs, replacement, and additions to Common Properties, payment of the cost of labor, equipment, material, management and supervision, necessary to carry out its authorized functions.

Notwithstanding the level of annual or special assessments as aforesaid, the Declarant and/or the Association shall be entitled to charge a users fee for facilities within the Properties owned and operated or built at the expense of the Declarant and/or the Association. Such fees shall include by way of illustration

and not by way of limitation or implied obligation upon Declarant or the Association, tennis fees or pool fees.

Section 3. Maximum Annual Assessment: Until January 1, 1988, the maximum annual assessment shall be no greater than Three Hundred and 00/100 (\$300.00) Dollars per Lot, but the Association, acting through its Board, may establish such assessment at a figure below such maximum amount.

(a) From and after January 1, 1988, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership. (b) Notwithstanding the above, from and after January 1 of the

year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased above 10% by the assent of three-fourths of the votes cast at a duly called meeting of the Association for this purpose. (c) The Board of Directors in any year may fix the annual

assessment at an amount it deems appropriate by not in excess of the maximum.

Section 4. Special Assessments for Improvements and Additions. In addition to the annual assessments authorized by Section 3 of this Article V, the Association may



levy special assessments, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected maintenance or repair and replacement of Common Properties and capital improvements thereon, and to repay any loan made to the Association to enable it to perform the duties and functions authorized herein, provided that any such assessment shall have the assent of three-fourths of the votes cast at a duly called meeting of the Association. Such special assessments, in any one year, may not exceed a sum equal to the amount of the maximum annual assessment, for two years except for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.

Section 5. Date of Commencement and Proration of Annual Assessments: Due Date. The annual assessment shall be fixed on a calendar year basis, provided however that liability for payment of the initial annual assessment shall not commence until January 1, 1987. The Association may provide for monthly, quarterly, or semi-annual payment due dates for the annual assessment in lieu of an annual payment date, provided the Owners are given thirty days prior notice of any change. Payment of the assessment shall be delinquent 30 days after any due date or billing date. The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 6. Uniform Rate of Assessment. The amount of any annual or special assessment shall be the same for all Lots excluding Lots owned by Declarant which are exempt from assessment as hereinafter provided, and shall be payable by an Owner irrespective of whether or not such Owner actually uses all or any portion of the facilities or services covered by any such assessments.

Section 7. Duties of the Board of Directors. The Board of Directors of the Association shall have such powers and duties as are prescribed in the Association's Articles and Bylaws, as amended from time to time, and by law, which shall include the following duties: to fix the due date of all special, annual or other periodically payable assessments; to cause written notice of every assessment to be sent to the Owner subject thereto at least 10 days prior to the due date thereof; upon demand at any time to cause to be furnished to any person legitimately interested, a statement in writing signed by the President, the Treasurer, or other appropriate officer of the Association setting forth the amount of any unpaid assessments with respect to any Lot subject to assessment by the Association or stating that all assessments with respect to the Lot which is subject of the statement have been paid, as the case may be. As between the Association and any such person who relies on any such statement so furnished, such statements shall be conclusive evidence against the Association of all facts and figures therein stated to be true and accurate.

#### Section 8. Subordination of Charges and Liens to Security Deeds.

(a) The lien and permanent charge of any assessment (together with interest thereon and costs of collection) authorized herein with respect to any Lot is hereby made subordinate to the lien of any first security deed or any secured purchase money security deed placed on such Lot if, but only if, all such assessments with respect to such Lot having a due date on or prior to the date such security deed is filed for record have been paid. The lien and charge as relates to assessments authorized hereunder having a due date subsequent to the date such security deed is filed for record and prior to the satisfaction, cancellation or foreclosure of such security deed or the sale or transfer of the encumbered property pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the encumbered property pursuant to a sale under power contained in such security deed. (b) Such subordination shall not relieve the Owner of the

encumbered property of his personal obligation to pay all assessments coming due at a time when he is the Owner; shall not relieve such property from the lien and permanent charge provided for herein (except to the extent a subordinated lien and permanent charge is extinguished as against a security deed grantee or such grantee's assignee or transferee by foreclosure or by sale or transfer in any proceeding in lieu of foreclosure or by sale under power); and no sale or transfer of such property to the security deed grantee or to any other

person pursuant to a decree of foreclosure, or pursuant to a sale under power, shall relieve any existing or previous Owner of such property of any personal obligation, or relieve such property or the then and subsequent Owners from liability for any assessment provided for hereunder coming due after such sale or transfer. (c) Notwithstanding the foregoing, the Association may at any time, either before or after any security deeds are placed on such property, waive, relinquish or quit claim in whole or in part the right of the Association to collect the assessments provided for hereunder with respect to such property coming due during a period while such property is or may be held by a security deed grantee pursuant to such sale or transfer.

#### Section 9. Exempt Property.

(a) Until conveyed to an Owner other than Declarant or a Builder of a single family home to be located on a Lot, each Lot which is subject to this Declaration shall be exempt from the assessments, charges and liens created herein while owned by Declarant or said Builder. Notwithstanding any other language to the contrary in this Declaration, this provision shall not be modified, amended or revoked without the express consent of the Declarant. (b) All Common

Properties, including any Lot, which may be designated for use as such by Declarant, shall be exempt from the assessments, charges and liens created herein. (c) So long as any Lot is vacant or until the improvements are occupied by a family for residential purposes the Lot will be exempt from assessments.

## **ARTICLE VI Architectural, maintenance and Use Restrictions**

### **Section 1. Architectural Committee**

(a) No building or improvement shall be erected, placed or altered on any Lots until the building plans and specifications and a plot plan showing the location of such building has been approved in writing as to conformity and harmony of external design with existing structures in the subdivision, and as to location with respect to topography and finished grade elevations, by an architectural control committee composed of the Developer or representatives designated by the Developer. In the event of death or resignation of any committee member, the remaining members shall have full authority to appoint a successor member or members who shall thereupon succeed to the powers and authorities of the member so replaced. In the event the Committee or its designated representatives, fails to approve or

disapprove such design and location within forty-five (45) days after said plans and specifications have been submitted to it, such approval will not be required and this covenant will be deemed to have been fully complied with. All Committee decisions shall be final and binding and there shall be no revision of any action of the Committee except by procedure for injunctive relief when such action is patently arbitrary and capricious. Committee members shall not be liable to any persons subject to or possessing or claiming the benefits of these restrictive covenants for any damage or injury to property or for any other loss arising out of their acts hereunder; it being understood an aggrieved party's remedies shall be restricted to injunctive relief and no other. Neither the Committee members nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. Powers and duties of the Committee and any designated representative or successor members shall, on December 31, 1989, pass to a committee of three Owners of Lots in all sections or units of the subdivision then existing, provided however, that until such selection is made by said majority of Owners, the persons constituting the Committee on said date shall continue to exercise such powers and duties until such time as their successors are elected. (b) In order to assure that location of houses will be staggered where

practical and appropriate and that the structures will be located with regard to the ecological constraints and topography of each individual Lot, taking into

consideration topography, the location of large trees and similar considerations, the Declarant and the Committee reserve the right to control absolutely and solely to decide the precise site and location of any house or dwelling or other structure upon all lots. Provided, however, that such location shall be determined only after reasonable opportunity is afforded the Owner to recommend a specific site. (c) Refusal or approval of plans, specifications, builder, or location may

be based upon any grounds including purely aesthetic considerations, which in the sole and uncontrolled discretion of the Committee shall be deemed sufficient. (d) Any builder prior to performing any work on the Properties must be

approved by the Committee as to financial stability, building experience, and ability to build structures of the class and type of those, which are to be built on the Properties. No Owner will be permitted to act as his own builder or contractor, for the exterior of any structure, except where such Owner obtains his income primarily from the construction of the type of structure to be constructed upon the Properties, and otherwise meets the qualifications for approval by the Committee as hereinabove set forth. (e) The exterior of all houses and other structures and site work and landscaping must be completed within one (1) year after the

construction of same shall be commenced, except where completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergency or natural calamities, (f) In the event any

Owner violates the terms of this Section 1 of Article

VI, the Association, or its duly appointed agent, shall, after thirty (30) days written notice to Owner to cure such violation and failure of Owner to so cure within such period, be entitled to enter upon the property of Owner and cure such defect including removal of any structure built in violation hereof, all the cost and expense of Owner. This right of the Association, or its agent, shall be in addition to all other general enforcement rights the Association may have for a breach or violation of the terms of these covenants and restrictions and shall not be deemed a trespass by the Association or its agent.

## Section 2. Restrictions on Use and Rights of the Declarant and Association and Building Requirements.

(a) Residential Use of Property. All lots shall be used for residential purposes and no business or business activity shall be carried on upon any lot at any time; provided however that nothing

shall prevent the Developer or any builder of homes in Hadfield from using any lot owned by the Developer or such builder of homes for the purpose of carrying on business related to the development, improvement and sale of property in Hadfield provided, further, private offices may be maintained in dwellings located on any of the lots so long as such use is incidental to the primary residential use of the dwellings. (b) Building construction. Not more than one single-family

residence, not to exceed two and one half (2 1/2) stories in height exclusive of basement shall be erected on any lot. (c) Setback and Building Lines.

(i) Each dwelling, which shall be erected on any lot, shall be situated on such lot in accordance with the building and setback lines shown on the recorded plat thereof. (ii)

Walls and Fences. No fence or wall shall be

erected, placed or altered on any lot nearer to any street than said minimum building line unless the same be retaining walls or masonry construction which do not in any event rise above the finished grade elevation of earth embankment so retained, reinforced or stabilized, except that this restriction shall not apply to fences or walls which have been approved by the Architectural Control Committee under the architectural controls appearing above in

Article VI, Section 1. The exposed part of retaining walls shall be made of brick, natural stone, stucco, railroad ties or veneered with brick or natural stone. (iii) Terraces, eaves and

detached Garages. For the

purposes of determining compliance or non compliance with the foregoing building line requirements, terraces, stoops, eaves, wing-walls and steps extending beyond the outside of the structure shall not be considered as part of the structure. Detached garages or accessory buildings must be to the rear of the main dwelling and must not violate the minimum sideline restriction. (d) Building

Requirements. The living areas of the main structure, exclusive of open porches, porte-cocheres, garages carports, breezeways and basements, shall not be less than the following:

(i) One (1) story 1,800 square feet. (ii) More than one (1) story 1,800 square feet. (e) Obstructions to View at Intersections. The lower branches of

trees and other vegetation shall not be permitted to obstruct the view at intersections. (f) Delivery Receptacles and Property Identification Markers. The

Architectural Control Committee shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receptacles, as well as property identification markers. (g) Use of Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any lot, and no trailer, camper, shack, tent, garage, barn or any other structure of a similar nature shall be used as a residence, wither temporarily or permanently; provided, this paragraph shall not be construed to prevent the Developer and those engaged in sales and construction from using temporary structures during the construction and sales period of this subdivision. (h) Completion of Construction. The Architectural Control

Committee shall have the right to take appropriate Court action whether at law or in equity, to compel the immediate completion of any residence not completed within one (1) year from date of commencement of construction. (i) Livestock. No animals, livestock or poultry of any kind shall

be raised, bred or kept on any lot, except dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Such household pets must not constitute a nuisance or cause unsanitary conditions.

(j) Offensive Activities. No noxious, offensive or illegal activities shall be carried on upon any lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to the owners of the other lots in Hadfield. (k) Signs. No signs of any kind shall be displayed to the public

view on any lot except one professional sign of not more than one square foot, one sign not more than four square feet advertising the property for sale or rent, or signs used by a builder advertising the property for sale or rent, or signs used by builder to advertise the property during the construction and sales period. After the owner closes his sale and loan on any let in Hadfield, thereafter the only signs permitted on his lot will be a professional sign for identification purposes, or a sign to rent or sell said property of a type used by Brokers in the Atlanta area, with the usual wording, and such sign shall not be more than two feet on each side, this is to say

said sign shall not contain more than four square feet, and only one sign shall be permitted on each lot. The Developer reserves the right to, and the owners do hereby agree, that in the event any such sign is not satisfactory to the Developer, the Developer may at his option notify the owner in writing, and the sign will be removed and will be replaced with a sign acceptable to the Developer, showing that the property is either for sale, or for rent, the agent, and his or her phone number. This is intended to include banners, signs on cloth, paper, cardboard or other materials. (1) Aesthetics, Nature Growth. Screening, Underground Utilities.

Trees which have a diameter in excess of (6) inches, as measured two (2) feet above ground level, the distinctive flora, shall not be destroyed or removed except with the prior approval, in writing of the Architectural Control Committee; provided, this shall not prevent the removal of all trees necessary for the construction of the residence and driveway on each lot. Clotheslines, garbage cans and equipment shall be screened to conceal them from view of neighboring lots and streets. (m) Antennae. No radio or television transmission or reception

towers or antennae shall be erected on the property. In no event shall free standing transmission or receiving towers be permitted nor shall satellite dish receivers be permitted. (n) Trailers, Trucks. School Buses, Boats, Boat Trailers. No house

trailer or mobile homes, campers or other habitable motor vehicles of any kind, school buses, trucks or commercial vehicles, boats or boat trailers shall be kept, stored or parked overnight either on any street or any lot, except within enclosed garages.

(o) Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators, or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. If such litter or other material is found on any lot, the same will be removed by the lot owner of such lot, at the owner's expense. (p) Changing Elevations. No lot owner shall excavate or extract

earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding lots, unless approved in writing by the Architectural Control Committee. (q) Open Carport. No open carport or garage shall be permitted to face any street. If terrain dictates a front entry, then garage doors will be required. (r) Foundation Walls. No exposed concrete

block or concrete will be allowed on any foundation walls. (s) Chimneys. No chimney finished in wood or like material will be permitted. Chimneys will be finished with natural stone, brick, or stucco. (t) Model Home. The Developer, as well as any builder of homes in Hadfield shall have the right to construct and maintain model homes on any of the lots. (u) Driveways and Entrance to Garage. All driveways and entrances to garages shall be concrete or a substance approved in writing by the Architectural Control Committee. (v) Air Conditioner Condensers. Condensers shall not be located in front of the house. When located in a side yard or when visible to a public street or walkway, condensers shall be screened by landscaping or by other approved methods.

## **ARTICLE VII** Reservation o f Easements

Section 1. Access. Declarant specifically reserves unto Declarant and the Association the right to an easement for access and ingress and egress to and from and over any of the Properties as shown on the recorded plans of Hadfield to service any of the Common Properties or easement provided for herein. Reciprocal easements are hereby reserved for the benefit of adjoining lot owners for the control, maintenance and repair of the utility, water and sewer lines affecting or crossing any lot.

Section 2. Utilities and Drainage. Declarant, on behalf of the Association and on behalf of such utility companies as may from time to time serve Hadfield or the Properties, and their agents licensees, without further assent permit, reserves the right, title and privilege of a general easement, which shall be perpetual, alienable and assignable, to go in and on the Properties with men and equipment to construct, place, install, maintain and operate in, upon, across and through said premises, in a proper and workmanlike manner, electric, water, gas, telephone, sanitary and storm sewer drainage systems, and other conveniences and utilities (such services hereinafter referred to collectively as "utility systems"), including trenching and installation of such conductors, wires, cables, conduits, transformers, concrete pads, pipes, sewers, water mains and other equipment, apparatus, appliances, buildings and structures necessary or convenient therefore, and including the right to cut any trees, bushes, shrubs or other vegetation, make any grading of the soil, or take any other action reasonable and necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The easement hereby reserved shall include the right to enter upon the premises with men and equipment for the purposes of inspection,



maintaining, repairing and replacing the various utility systems, and the right at all times to remove and keep clean any obstructions that may, in any way, adversely affect the proper maintenance and operation of the various utility systems. The easement hereby reserved shall also include the right to construct drain ways for surface water whenever such action may appear to Declarant to be necessary. Further, Declarant specifically reserves the right to construct, place and maintain within the Common Properties and on any Lot, wells, pumping stations, tanks and other utility systems apparatus. These reservations, however, shall not be considered an obligation of Declarant to provide or maintain any such utilities or services. The exercise of this easement for the construction and installation of any given utility shall not bar the exercise of this easement for the construction and installation of other utilities.

## **ARTICLE VIII**

### **Miscellaneous Provisions**

Section 1. Other Property. Without further assent or permit, the Developer for itself, its successors and assigns, hereby reserves the right, exercisable from time to time, to extend the scheme of this Declaration to other real property developed as a part of Hadfield by filing for record a supplemental declaration in respect to the property to be then subjected to this declaration.

Section 2. Duration. The covenants and restriction of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the owner of any land subject to this Declaration, their respective heirs, legal representatives, successors and assigns, for a term of twenty (20) years from the date of this Declaration is filed for record in the office of the Clerk of the Superior Court of Fulton County Georgia. Section 3. Amendment. This

Declaration may be amended at any time from time to time by an agreement signed by at least ninety (90) percent of the owners of record, other than Developer, or lots in Hadfield, and also by Developer, if Developer then owns any lots in Hadfield during the initial 20 year period of this Declaration, or thereafter by the owners of at least seventy-five (75) percent of the lots in Hadfield. No amendment to the Provisions of this Declaration shall alter, modify, change or rescind any right, title, interest or privilege therein granted or accorded to the holder of any mortgage encumbering any lot affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed for record in the Office of the Clerk of Superior Court of Fulton County, Georgia, together with the written consent thereto of any mortgage holder affected thereby filed with such amendment. Every purchaser or grantee of any interest in any real property now or hereafter subjected to this Declaration by acceptance of a deed or other conveyance therefore, thereby agree that this Declaration may be amended as provided in this Section.

Section 4. Enforcement. Each lot owner shall comply strictly with the covenants, conditions, restrictions and easements set forth in this Declaration. In the event of a violation or breach, or threatened violation or breach, of any of the same, the Developer, the Architectural Control Committee or any aggrieved lot owner, jointly and severally, shall have the right to proceed at law or in equity for the recovery of damages, or for injunctive relief, or both.

Section 5. Interpretation. In all cases, the covenants and restrictions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Association, will best effect the intent of the general plan of development and maintenance set forth, hereinabove. The covenants and restriction shall be liberally interpreted, and if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

Section 6. Delegation and Assignability. Declarant shall at all times and from time to time have the right to delegate and assign to the Association any and all rights and functions herein reserved to Declarant. At such time as Declarant conveys to a third party the last Lot owned by it in Hadfield, all rights and functions reserved to Declarant under this Declaration which have not already been delegated and assigned to the Association shall be deemed automatically to have been delegated and assigned to the Association as of the date of such conveyance, so that thereafter the Board of Directors of the Association (or such person or committee to whom the Board may delegate any such right or function) shall have the power and authority to perform or exercise such rights and functions reserved hereunder to Declarant and the Association.

Section 7. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given in effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 8. Captions. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Articles or Section to which they refer.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto caused this Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Hadfield to be executed by its duly authorized officers the day set forth below.

MONARCH DEVELOPMENTS OF GEORGIA, INC.

BY: Arnold C. Emmott, Vice President Executed and declared in the  
presence of: Joe A. Brooks, Witness

Patricia B. Mallard, Notary Public

**FIRST AMENDMENT**

**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR HADFIELD**

THIS FIRST AMENDMENT made this 27<sup>th</sup> day of January 1992, by Monarch  
Developments of Georgia, Inc., a Georgia Corporation, hereinafter referred to as  
"Developer."

WITNESSETH:

WHEREAS, Developer owns certain lots in Hadfield Subdivision, which subdivision  
lies in Land Lot 1295 and 1296, 2<sup>nd</sup> District, 2<sup>nd</sup> Section of Fulton County, and being more  
particularly described in Exhibit A attached hereto and incorporated herein by reference;

WHEREAS, the subject real property is subject to Declaration of Covenants,  
Conditions and Restrictions and Reservation of Easements for Hadfield (hereinafter  
"Declaration") dated March 12, 1987, recorded in Deed Book 10674 pages 54 to 69, in the  
Office of the Clerk of the Superior Court of Fulton County, Georgia;

WHEREAS, Article VIII, Section 3 of said Declaration provides that the Developer may amend such Declaration;

WHEREAS, Developer desires to amend such Declaration upon the terms hereinafter specified;

NOW, THEREFORE, the Developer hereby declares that such Declaration are amended as follows:

1.

ARTICLE VI, Section 2 (d) shall read as follows:

"Building Requirements. The living areas of the main structure, exclusive of open porches, porte-cocheres, garages, carports, breezeways, and basements, shall not be less than the following:

- (i) One (1) story 2,500 square feet. (ii) More than one (1) story, 2,700 square feet."

2.

Other than as specifically amended herein, all other provisions of said Declarations shall remain unchanged.

IN WITNESS WHEREOF, the undersigned Developer has caused this First Amendment to the Declaration of Covenants, Conditions, and Restriction and Reservation of Easements for Hadfield to be executed by its duly authorized officers, the day and year set forth above.

Developer:

Presence of: Joe A.

Brooks, Witness

Monarch Developments of Georgia, Inc.

By: Arnold C. Emmott, V.P.

Signed and sealed in the

## **EXHIBIT 'A'**

### **LEGAL DESCRIPTION**

#### **Hadfield Subdivision**

That tract of land in Land Lot 1295 and 1296, Second District, Second Section, Fulton County, Georgia, more particularly described as follows:

Beginning at an iron pin found marking the Southwest corner of said Land Lot 1296; thence, from said point of beginning, along the Southerly line of said Land Lot 1296 then following two (2) courses: 1) S. 89-25-46 E. 1036.86 feet; and 2) S. 87-26-18 E. 327.17 feet, to an iron pin found marking the Southwest corner of said Land Lot 1295, S. 89-13-46 E. 289.07 feet, to an iron pin set in the Northwesterly line of Old Mountain Park Road, being sixty (60.00) feet in width; thence, along said Northwesterly line, N. 24-58-28 E. 1,031.76 feet, to the Southwesterly line of Mountain Park Road, being eighty (80.00) feet in width; thence, Northwesterly, 950.69 feet along said Southwesterly line and the curvatures thereof, to a point in the Northerly line of said Land Lot 1296; thence, along said Northerly line, N. 88-21-16 W. 170.57 feet, to an iron pin found marking the Northwest corner of said Land Lot 1295; thence, along the Westerly line of said Land Lot 1295, S. 02-57-10 W. 662.40 feet, to an iron pin found; thence, N. 02-46-54 E. 264.68 feet, to an iron pin found in the Northerly line of said Land Lot 1296; thence, along said Northerly line, N. 87-33-06 W. 747.38 feet, to an iron pin found marking the Northwest corner of said Land Lot 1296; thence, along the Westerly line of said Land Lot 1296 the following three (3) courses: 1) S. 01-11-50 W. 324.94 feet, to an iron pin found; 2) S. 07- 08-57 W. 131.61 feet, to an iron pin found; and 3) S. 01-38-17 W. 1,261.34 feet, to the point of beginning and containing an area of 61.13 acres of land.

The above-described tract is more fully shown on a survey for Monarch Developments of Georgia, Inc. dated January 10, 1986, and recorded in Plat Book 145, page 15, Fulton County Records.

Cross Index to Deed Book 10674 Page 54

**SECOND AMENDMENT**

**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
OF HADFIELD**

THIS SECOND AMENDMENT made this 9<sup>th</sup> day of February 1994, by Monarch Developments of Georgia, Inc., a Georgia Corporation, hereinafter referred to as "Developer".

WITNESSETH:

WHEREAS, Developer owns certain lots in Hadfield Subdivision, which subdivision lies in Land Lot 1295 and 1296, 2<sup>nd</sup> District, 2<sup>nd</sup> Section of Fulton County, and being more particularly described in Exhibit A attached hereto and incorporated herein by reference;

WHEREAS, the subject real property is subject to Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Hadfield (hereinafter "Declaration") dated March 12, 1987, recorded in Deed Book 10674 pages 54 to 69, in the Office of the Clerk of the Superior Court of Fulton County, Georgia;

WHEREAS, Article VIII, Section 3 of said Declaration provides that the Developer may amend such Declaration;

WHEREAS, Declaration has previously been amended by First Amendment to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Hadfield dated January 27, 1992, recorded in Deed Book 14960 page 345, in the Office of the Clerk of the Superior Court of Fulton County, Georgia;

WHEREAS, Developer desires to amend such Declaration upon the terms hereinafter specified;

NOW, THEREFORE, the Developer hereby declares that such Declaration are amended as follows:

1.

ARTICLE VI, section 1 (a) shall read as follows:

(a) No building or improvement shall be erected, placed or altered on any Lots until the building plans and specifications and a plot plan showing the location of such building has been approved in writing as to conformity and harmony of external location with respect to topography and finished grade elevations, by an architectural control committee composed of the Developer or representatives designated by the Developer. In the event of death or resignation of any committee member, the remaining members shall have full authority to appoint a successor member or members who shall thereupon succeed to the powers and authorities of the member so replaced. In the event the Committee or its designated representatives, fail to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been submitted to it, such approval will not be required and this covenant will be deemed to have been fully complied with. All Committee decisions shall be final and binding and there shall be no revision of any action of the Committee except by procedure for injunctive relief when such action is patently arbitrary and capricious. Committee members shall not be liable to any persons subject to or possessing or claiming the benefits of these restrictive covenants for any damage or injury to property or for any other loss arising out of their acts hereunder; it being understood an aggrieved party's remedies shall be restricted to injunctive relief and no other. Neither the Committee members nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

2.

Other than as specifically amended herein, or by First Amendment, all other provisions of said Declarations shall remain unchanged.

IN WITNESS WHEREOF, the undersigned Developer has caused this Second Amendment to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Hadfield to be executed by its duly authorized Officers, the day and year set forth above.

Developer:

Monarch Developments of Georgia,  
Inc.

**[Note: This document is provided for informational purposes only. For support of material actions or decisions – please refer to the original copy.]**

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Dated: 23<sup>rd</sup> day of February 2008

State of Georgia

County of Fulton

**Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Hadfield**

This Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Hadfield (hereafter referred to as “Amendment”) is made on the date set below.

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

WHEREAS, Monarch Development of Georgia, Inc. a Georgia corporation (hereafter referred to as “Declarant”), recorded that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Hadfield on March 12, 1987, in Deed Book 10674, Page 54, et seq. of the Fulton County, Georgia land records (hereafter referred to as “Decalaration”), a copy of which is attached hereto as Exhibit “A” and incorporated herein by this reference;



WHEREAS, the Declaration has been previously amended by the following amendments recorded in the Fulton County, Georgia land records, copies of which are attached hereto as Exhibits “B” and “C” and incorporated herein by this reference:

<u>Amendment</u>	<u>Deed Book / Page Number</u>
First Amendment	14960 / 345
Second Amendment	17921 / 179

WHEREAS, Homeowners Association of Hadfield, Inc. (hereafter referred to as the “Association”) is the homeowners association identified in the Declaration and existing and operating in the Hadfield subdivision;

WHEREAS, pursuant to Article VIII, Section 3 of the Declaration, the Declaration may be amended at any time from time to time by an agreement signed by at least ninety (90) percent of the owners of record, other than Declarant, of lots in Hadfield, and also by Declarant then owns any lot in Hadfield during the initial twenty (20) year period of the Declaration, or thereafter by the owners of at least seventy-five (75) percent of the lots in Hadfield;

WHEREAS, as of the date of this Amendment, twenty (20) years has elapsed from the recording of the Declaration;

WHEREAS, this amendment does not alter, modify, change or rescind any right, title, interest or privilege granted or accorded in the Declaration to the holder of any mortgage encumbering any lot;

WHEREAS, at least seventy-five (75) percent of owners of record of lots in Hadfield have signed agreements approving this Amendment, which are attached hereto and incorporated herein to create one agreement; and

NOW, THEREFORE, the Declaration and all amendments thereto are hereby restated and incorporated herein and are hereby amended as follows:

1.

**The Preamble of the Declaration is amended by adding the following hereto:**

THIS DECLARATION DOES CREATE PROPERTY SUBJECT TO THE GEORGIA PROPERTY OWNERS’ ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ.

2.

**Article I, Section 1 of the Declaration is amended by adding the following thereto:**

(k) “Georgia Property Owners’ Association Act or ACT” shall mean the Georgia Property Owners’ Association Act, O.C.G.A. Section 44-3-220, et seq., as the same may be

supplemented, amended or modified. Hadfield is a residential property owners development which is hereby submitted to the Act.

The Declaration and all property subject to the Declaration are accordingly submitted to the Act, and any provision in the Declaration to the contrary shall be null and void.

3.

**Article VIII, Section 2 of the Declaration is amended by striking same in its entirety and substituting the following therefore:**

Section 2. Duration. The covenants, conditions, restrictions, and easements within the Declaration shall run with and bind the property subject to this Declaration perpetually or as otherwise provided by Georgia law.

4.

**Article VIII, Section 3 is amended by striking same in its entirety and substituting the following therefore:**

Section 3. Amendment. The Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent, of the Association members holding at least two-thirds (2/3) of the total vote of the Association. Notice of a meeting, if any, at which a proposed amendment will be considered, shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and filed in Fulton County, Georgia land records.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote of the owners, may amend the Declaration to comply with any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

Any action to challenge the validity of the Declaration or an amendment adopted under this Section must be brought within one (1) year of the recording of the same in the Fulton County, Georgia land records. No action to challenge the Declaration or any such amendment may be brought after such time.

5.

**Article VIII of the Declaration is amended by adding the following thereto as Section 9:**

Section 9. Fiscal Year. The fiscal year of the Association may be set by Board resolution or, in the absence thereof, shall be June 1 to May 31.

Prepared by:

The Lueder Law Firm, LLC  
2050 Marconi Drive, Suite 300  
Alpharetta, GA 30005