

Return To:
Lochinver Development
889 Commerce Dr.
Suite A
Conyers, GA. 30094

DECLARATIONS OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR:
LOCHINVER
UNITS FIVE & SIX

FILED IN OFFICE
CLERK OF SUPERIOR COURT
ROCKDALE COUNTY, GA.

00 Feb 16
00 FEB 16 PM 3:53

Jeanne P. Caldwell CLERK
00-002006

STATE OF GEORGIA
COUNTY OF ROCKDALE

BOOK 1820 PAGE 164

THIS DECLARATION ("this Declaration") is made on the date hereinafter set forth by Lochinver Development Partnership, a Georgia general partnership composed of Gerald Sheppard and A & D Partnership, a Georgia general partnership whose sole general partners are Alton Housworth, Jr. and DSH Enterprises, Inc., a Georgia Corporation (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Land Lots 238 and 243 of the 11th District of Rockdale County, Georgia, which property is more particularly described on Final Subdivision Plat identified as Unit Five prepared by Patrick & Associates, Inc., dated August 7, 1998 and recorded in Plat Book 28, Page 126 of Rockdale County, Georgia Records and Final Subdivision Plat identified as Unit Six prepared by Patrick & Associates, Inc., dated September 22, 1999 and recorded in Plat Book 29, Page 52 of Rockdale County, Georgia Records, marked Exhibits "A" and "B" attached hereto and made a part of this Declaration; and,

WHEREAS, the Declarant intends to develop on lands including the real property described above a single-family residential development to be known as "Lochinver" (hereinafter referred to as the "Development"); and

NOW, THEREFORE, the Declarant hereby declares that all of the property described in Exhibit "A" shall be held, sold and conveyed subject to this Declaration of Covenants, Conditions and Restrictions, which is for the purpose of enhancing and protecting the desirability and attractiveness of, and which shall run with, the real property, and be binding on all parties having any right, title or interest in the described property or any part thereof, and shall, subject to all limitations herein provided, inure to the benefit of each Owner, his heirs, grantees, distributees, successors and assigns.

ARTICLE I
DEFINITIONS

The following words, when used in this Declaration of Covenants, Conditions and Restrictions, shall have the following meanings:

1.01 Additional Property. "Additional Property" means the additional property which may be added to the Property and made subject to this Declaration.

1.02 Architectural Control Committee. "Architectural Control Committee" (the "ACC") shall mean and refer to the committee which Declarant may, in its sole and exclusive discretion, establish pursuant to the provisions of Article II hereof.

1.03 Builder. "Builder" means any person, firm, corporation, partnership, or other entity which has purchased a Lot from Declarant for the purpose of erecting a Structure thereon.

1.04 Declarant. "Declarant" means Lochinver Development Partnership, a Georgia general partnership composed of Gerald Sheppard and A & D Partnership, a Georgia general partnership whose sole general partners are Alton Housworth, Jr. and DSH Enterprises, Inc., a Georgia Corporation, and its successors and assigns, including but not limited to, any person, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof, which acquires all or substantially all of the Development then owned by Declarant (or subsequent successors in interest), together with its rights hereunder, by conveyance or assignment from Declarant, or judicial or non-judicial foreclosure, for the purpose of development and/or construction on the Property.

1.05 Lot. "Lot" means any numbered parcel of land shown upon those certain plats of survey prepared by Patrick & Associates, Inc., Unit Five dated August 7, 1998, and recorded in Plat Book 28, Page 126, Rockdale County, Georgia Records, and Unit Six dated September 22, 1999, and recorded in Plat Book 29, Page 52 Rockdale County, Georgia Records, or as similarly shown on supplemental surveys of such tract or such additional tracts as may be added to the Property from time to time, as provided herein.

1.06 Owner. "Owner" means the record owner (including Declarant) whether one or more persons or entities, of a fee simple title to any Lot, provided, however, that where fee simple title has been transferred and is being held merely as security for repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner.

1.07 Property. "Property" means that certain real property described in Exhibit "A" attached hereto and incorporated herein by reference.

1.08 Restrictions. "Restrictions" means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

1.09 Structure. "Structure" means:

(a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, tree, shrub, sign, signboard, temporary or permanent living quarters (including any house trailer), dock, deck, seawall, bulkhead, or any other temporary or permanent improvement to such Lot;

(b) any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters, from, upon or across any Lot, or which affects or alters the flow of any natural or artificial lake, creek, stream, wash or drainage channel from, upon, across or abutting any Lot: and,

(c) any change in the grade any point on a Lot of more than six (6) inches, whether or not subsection M of this Section 1.09 applies to such change.

ARTICLE II

ARCHITECTURAL CONTROL

2.01 Architectural Control. Until all the Lots in the Development have been fully developed, permanent improvements constructed thereon and sold to permanent residents, no Structure shall be commenced, erected, placed, moved onto or Permitted to remain on any Lot nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefor have been approved in writing by the Declarant. Such plans and specifications shall be in form and shall contain such information as may be reasonably required by the Declarant. 1

2.02 Architectural Control Committee; Creation and Composition. The Declarant may, in its sole and exclusive discretion, delegate the authority vested in Declarant pursuant to Section 2.01 hereof, and elsewhere in this Article II and in Article III, to an Architectural Control Committee (the "ACC") consisting of three (3) individuals to be appointed by the Declarant. In the event that, hereafter, there shall be created a non-profit civic organization for the sole purpose of promoting the common good and general welfare of the Owners, Declarant may, but shall not be obligated to, delegate such authority to such organization.

2.03 Purpose, Powers and Duties of the ACC. The purpose of the ACC shall be to review and approve any proposed installation, construction or alteration of any structure on any Lot. All plans shall be submitted to the ACC for approval as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the Development, and (ii) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the ACC shall have all of the powers

and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

2.04 Officers, Subcommittees and Compensation. The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be reimbursed by the Association for traveling expenses and other out-of-pocket costs incurred in the performance of their duties as members of the ACC.

2.05 Operations of the ACC.

(a) Meetings. The ACC shall hold regular meetings at least once every three (3) months or more often as may be established by the ACC. Special meetings may be called by the Chairman and shall be called by the Chairman upon the written request of a majority of the members of the ACC then in office. Regular and special meetings of the ACC shall be held at such time and at such place as the ACC shall specify. Notice of each regular or special meeting of the ACC shall be mailed to each member thereof at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any member of the ACC who signs a waiver of notice either before or after the meeting. Attendance of a member of the ACC at a meeting shall constitute a waiver of notice of such meeting and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the member states, at the beginning of the meeting, any such objection or objections to the transaction of business. At each meeting of the ACC, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the ACC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ACC. In the absence of a quorum, any member of the ACC present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. The ACC shall maintain both a record of votes and minutes for each of its meetings. The ACC shall make such records and minutes available at reasonable places and times for inspection by Builders and Owners. Any action required to be taken at a meeting of the ACC, or any action which may be taken at a meeting of the ACC, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the ACC and be filed within the minutes of the proceedings of the ACC. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ACC.

(b) Activities.

(i) The ACC shall adopt and promulgate the Design Standards described in Section 2.06 hereof and shall, as required, make findings, determinations, rulings, and orders with respect to the conformity with said Design Standards of plans and specifications to be submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations, or approvals, which may include specified requirements or conditions, pursuant to the provisions of this Declaration.

(ii) Any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or appeal by the applicant to the ACC as provided in this paragraph (ii). Written notice of the decision of such two (2) or more members shall, within five (5) working days thereof, be given to any applicant for an approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be satisfactory, file a written request to have the matter in question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by, the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

2.06 Design Standards.

(a) The ACC shall from time to time adopt, promulgate, amend, revoke and enforce guidelines (the "Design Standards") for the purposes of:

(i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration;

(ii) governing the procedure for such submission of plans specifications:

(iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, location and size of Structures and all other matters that require approval by the ACC pursuant to this Declaration; and

(iv) assuring the conformity and harmony of external design and general quality of the Development.

(b) The ACC shall make a published copy of its current Design Standards readily available to all applicants seeking the ACC's approval.

2.07 Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefor shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards, including where applicable, and without being limited to:

(a) a drawing showing the location of all proposed and existing Structures on the Lot including building setbacks, open space, driveways, walkways and parking spaces including the number thereof and all siltation and erosion control measures;

(b) a foundation plan;

(c) a floor plan;

(d) the exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures shall appear after all back-filling and landscaping are completed;

(e) specifications of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures;

(f) plans for landscaping and grading; and,

(g) plans for grubbing and disposal of waste material.

2.08 Approval of Drawing, Plans and Specifications. Upon approval by the ACC of any drawings, plans and specification submitted pursuant to this Declaration, two (2) copies of such plans and specifications, as approved, shall be deposited for permanent record with the ACC and copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot or Structure of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar drawings, plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such drawings, plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such drawings, plans and specifications, as approved, and any conditions attached to any such approval.

2.09 Disapproval of Drawings, Plans and Specifications. The ACC shall have the right to disapprove any drawings, plans and specifications submitted pursuant to this Declaration for any of the following reasons:

(a) the failure to include information in such drawings, plans and specifications as may have been reasonably requested;

(b) the failure of such drawings, plans or specifications to comply with this Declaration or the Design Standards;

(c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure to fail to be in conformity and harmony of external design and general quality with the standards of the Development as set forth in the Design Standards, or (ii) as to location to be incompatible with topography, finished ground elevation and surrounding Structures. In any case in which the ACC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

2.10 Obligation to Act. The ACC shall take action on any drawings, plans and specifications submitted as herein provided within ten (10) days after receipt thereof. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the drawings, plans and specifications and shall be returned to the applicant. Failure by ACC to take action within ten (10) days of receipt of drawings, plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

2.11 Inspection Rights. Any member of the ACC may, after reasonable notice, at any reasonable time or times enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration; and neither the ACC, nor any such member shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

2.12 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot; otherwise that in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the ACC shall have such rights and remedies as are available under Article V hereof.

2.13 Certification of Compliance.

(a) Upon completion of the installation, construction or alteration of any Structure in accordance with the drawings, plans and specifications approved by the ACC, the ACC shall, upon written request of the Owner thereof or upon the ACC's own initiative, issue a Certificate of Compliance, identifying such Structure and Lot upon which such Structure is placed, and stating that the plans and specifications have been approved and that such Structure complies with such plans and specifications. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the ACC.

(b) Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts herein stated; and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article,

provided, however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction of Structures or of the workmanship, or to represent or warranty to any one the quality, function or operation of the Structures or of any construction, workmanship, engineering, materials or equipment.

The issuance of the Certificate shall in no way be construed to certify to any party that the Structures have been built in accordance with any applicable rule or regulation other than those of the ACC.

2.14 Nondiscrimination by ACC. The ACC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age or national origin. Further, the ACC in the exercise of its powers granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, age or national origin.

2.15 Liability for Defects. Neither the Declarant nor the ACC shall be liable for any defects in any drawings, plans and specifications which it approves.

2.16 Non-Existence of ACC. Notwithstanding any contrary provision contained in this Article II, or elsewhere in this Declaration, in the event that the Declarant shall elect not to appoint the ACC, or if the same shall cease to exist or function, then (i) all of the rights and obligations with respect to architectural control of the Development, including, without limitation, the right to adopt, promulgate, amend, revoke and enforce the Design Standards, shall vest (or re-vest, as the case may be) in the Declarant, and (ii) all references herein to the "Architectural Control Committee" or to the "ACC" shall mean and refer to the Declarant.

ARTICLE III

GENERAL COVENANTS AND RESTRICTIONS

3.01 Application. The covenants and restrictions contained in this Article III shall pertain and apply to all Lots and to all Structures erected or placed thereon.

3.02 Restriction of Use. Lots may be used for single-family residences only and for no other purpose provided that (i) Declarant or a Builder may operate a Sales Office and/or Model Home on a Lot or Lots designated by Declarant, and (ii) Declarant may utilize any one or more Lots, or portions thereof, for amenity areas or for dedicated public roads, subject to applicable governmental regulations.

3.03 Resubdivision of Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, without the prior written approval of the Declarant of drawings, plans and specifications for such split, division or subdivision.

3.04 Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Declarant or ACC of drawings, plans and specifications for the prevention and control of such erosion or siltation. The Declarant or ACC may, as a condition or approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices of controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape, and required landscaping as provided for in Section 3.05. Requirements for the prevention and control of erosion and siltation may be included in the Design Standards.

3.05 Landscaping. No construction or alteration of any Structure shall take place without the prior written approval by the Declarant or the ACC of drawings, plans and specifications for the landscaping to accompany such construction or alteration. Requirements for the landscaping to accompany the construction or alteration of any Structure shall be included in the Design Standards.

3.06 Trees. No living tree having a diameter of six (6) inches or more (measured from a point two (2) feet above ground level) shall be removed from any Lot unless such removal is in conformity with approved landscaping plans and specifications submitted pursuant to the provisions of Section 3.05 hereof. Guidelines relation to the preservation of trees and other natural resources and wildlife upon the Property may be included in the Design Standards.

3.07 Temporary Buildings. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot. No Builder or sub-contractor shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot.

3.08 Signs. No signs whatsoever shall be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except those which comply in all respects with the applicable sign ordinances or other sign regulations then in effect in Rockdale County, Georgia.

3.09 Setbacks. Each dwelling which is erected on a Lot shall be situated on such Lot in accordance with the building and setback line shown on the recorded plat, and in no event shall any dwelling be erected upon any Lot in a manner which violates such building and setback lines. For purposes of this requirement all porches, patios, decks, shutters, awnings, eaves, gutters and other such overhangs will not be considered in violation thereof, even though such structure shall extend beyond said building and setback lines if approved by the Declarant or ACC.

3.10 Fences. No fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the Declarant or ACC of drawings, plans and specifications for such fences and walls. Guidelines relating to the design, location and uses of fences and walls may be included in the Design Standards.

3.11 Roads and Driveways. No road or driveway shall be constructed or altered on any Lot without the prior written approval of the Declarant or the ACC of drawings, plans and specifications for such roads and driveways. Guidelines relating to the design and location of roads and driveways may be included in the Design Standards.

3.12 Antennae. No exterior television or radio antennae of any sort shall be placed, allowed or maintained upon any portion of a Structure or Lot without prior written approval of the Declarant or the ACC. No antennae shall be installed or used for the purpose of transmitting electronic signals.

3.13 Clotheslines, Garbage Cans, Etc. No clotheslines shall be permitted. All equipment, garbage cans, and woodpiles shall be kept in garage or screened by adequate planting or approved fencing so as to conceal them from view by neighboring residences and streets.

3.14 Maintenance. Each Owner shall keep and maintain each Lot and Structure owned by him, as well as all landscaping located thereon, in good condition and repair, including, but no limited to the repairing and painting (or other appropriate external care) of all Structures: (ii) the seeding, watering and mowing of all lawns: and(iii) the pruning and trimming of all trees, hedges and shrubbery so that the same are not obstructive of a view by motorists or pedestrians of street traffic. If in the opinion of the Declarant or the ACC, any owner shall fail to perform the duties imposed by this Section, the Declarant or the ACC shall give written notice to the Owner to remedy the condition in question, setting forth in reasonable detail the nature of the condition and the specific action or actions needed to be taken to remedy such condition. If the Owner shall fail to take reasonable steps to remedy the condition within thirty (30) days after the mailing of said written notice by certified mail, then the Declarant or the ACC shall have the rights and remedies set forth in Article V hereof.

3.15 Recreational Vehicles and Trailers. No house trailer, mobile home, motor home, recreational vehicle, camper, truck with camper top, boat or boat trailer or like equipment shall be permitted on any Lot except if parked on the side or rear yard, or in the garage of, the residence located on the Lot.

3.16 Commercial Vehicles. No commercial vehicles shall be parked or stored on any Lot, or in the street adjacent thereto.

3.17 Recreational Equipment. Recreational and playground equipment shall be placed or installed only upon the rear of a Lot as approved by the Declarant or the ACC.

3.18 Non-Discrimination. No Owner or person authorized to act for an Owner shall refuse to sell or rent, after receiving a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the purchase or rental of any Lot to any persons because of race, color, religion, sex, age or national origin. Anything in this Declaration to the contrary notwithstanding, this covenant shall run with the land and shall remain in effect without any limitation in time.

3.19 Animals. No animals, including birds, insects, and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance.

3.20 Solid Waste.

(a) No person shall dump rubbish, garbage, or any other form of solid waste on any Lot.

(b) No person shall burn rubbish, garbage, or any other form of solid waste on any Lot.

(c) Except for building materials employed during the course of construction of any Structure approved by the Declarant or the ACC, no lumber, metals, bulk materials or solid waste of any kind shall be kept, stored, or allowed to accumulate on any Lot unless screened or otherwise handled in a manner so as to prevent their view by the public or other Lot owners.

(d) If rubbish, garbage, or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open on any day that a pick-up is to be made, in order to provide access to persons making such pick-up. At all other times, such containers shall be screened, enclosed or otherwise stored in a manner so as to prevent their view by the public or other Lot owners.

3.21 Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the community.

3.22 Minimum Square Footage. Exclusive of garages, porches or similar areas, a residence to be constructed on a Lot shall have the following minimum heated floor areas:

- (a) One-story - 2,000 square feet;
- (b) One and one-half story - 2,400 square feet, with a minimum of 1,600 square feet on the first level; and,
- (c) Two-story - 2,400 square feet, with a minimum of 1,200 square feet on the first level.

3.23 Completion of Construction. Construction of any Structure on a Lot shall be completed within six (6) months after commencement of construction; provided, however, that such period shall be extended, if necessary, to Account for any delay in completion caused by adverse weather conditions or other causes not within the control of the Builder or Owner.

3.24 Roofing Material: Roof Pitch. Roofing material shall be as provided for in the Design Standards. Roofs shall have a minimum pitch of 8/12.

3.25 Concrete Block. No exterior portion of any Structure, that is visible, shall be composed of concrete block.

3.26 Guest Houses and Detached Garages. Guest houses and detached garages shall be permitted so long as (i) they meet the requirements of the Planning and Zoning ordinances of Rockdale County, Georgia, and (ii) the drawings, plans and specifications therefor have been approved by the Declarant or the ACC.

ARTICLE IV

EASEMENTS, ZONING AND OTHER RESTRICTIONS4.01 Easements.

(a) Declarant hereby expressly reserves to the Declarant, its successors and assigns forever, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

(i) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television and other utilities and similar facilities;

(ii) the erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function;

(iii) slope control purposes, including the right to grade and plant slopes and to prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;

(iv) the planting or re-planting of hedges, shrubbery, bushes, trees, flowers and plants of any nature;

(v) the erection, installation, construction and maintenance of fences, walls, monuments, signs, etc. along streets in, around and along and at entrances to the Development, and the right to landscape such areas, plant, re-plant and prune hedges, shrubbery, bushes, trees, flowers, grass and plants of any nature; and

(b) No Owner shall have any right to use any easement created by the Declarant in, on or over any portion of the Property unless such easement has been assigned by the Declarant to such Owner or the Owners.

4.02 Easement Area. The words "Easement Area" as used herein shall mean those areas on any Lot with respect to which easements are shown on a recorded deed or on any filed or recorded map or plat relating thereto.

4.03 Entry. The Declarant and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such, Easement Area is reserved without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Article. The Declarant and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of Section 4.01.

4.04 Zoning and Private Restrictions. None of the covenants, restrictions or easements creating or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

ENFORCEMENT

5.01 Right of Enforcement. This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by the Declarant so long as it is an Owner, (ii) the ACC, to the extent authorized pursuant to Article II and Article III hereof, and (iii) each Owner, his legal representatives, heirs, successors and assigns. Further, those current owners of lots, identified on Exhibit 'C' hereto and incorporated and made a part hereof by reference, hereby join in this declaration, which by their execution do hereby acknowledge, accept and shall be bound in the entirety to the terms, conditions and restrictions herein.

5.02 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the ACC or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by, this Declaration: and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

5.03 No Waiver. The failure of the Declarant, the ACC, or the Owner of any Lot, his or its respective legal representatives, heirs, successors and assigns, to enforce any covenant, condition or restriction herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE VIDURATION AND AMENDMENT6.01 Duration and Perpetuities.

(a) The provisions of these covenants shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law. Provided, however, so long as Georgia law limits to twenty (20) years, the period during which covenants restricting lands to certain uses may run, any provision of these Covenants affected thereby shall run with and bind the land for a period of twenty (20) years from the date these Covenants are filed for record in the Office of the Clerk of the Superior Court of Rockdale County, Georgia, after which time such provision shall be automatically extended, if permitted by law, for successive periods of ten (10) years, unless an instrument, signed by at least seventy-five (75%) percent of the then Owners of record and the holders of first mortgages on their Lots has been recorded in the Office of the Clerk of said Court, agreeing to terminate or change such provisions in whole or in part. Every purchaser or grantee of any interest in any portion of the Property, by acceptance of a deed or other conveyance thereof, thereby agrees that the provisions of these Covenants may be extended and renewed as provided in this section.

(b) If any of the covenants, conditions, restrictions, easements or other provisions of these Covenants shall be unlawful, void or voidable for violation of the Rule Against Perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of Her Majesty Queen Elizabeth II, the Queen of England.

6.02 Amendment. These Covenants may be amended unilaterally at any time and from time to time by Declarant (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to these Covenants, (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to these Covenants, or (iv) if such amendment is

necessary to enable any governmental agency, such as the Veterans Administration, or reputable private mortgage insurance company to insure mortgage loans on the Lots subject to these Covenants; provided any such amendment shall not adversely affect the title to any Owner's Lot, unless any such Owner so affected thereby shall consent thereto in writing. These Covenants may be amended at any time and from time to time by an agreement signed by at least seventy-five (75%) percent of the Owners; provided, however, such amendment by the Owners shall not be effective unless also signed by the Declarant. No amendment to the provisions of these Covenants shall alter, modify, change or rescind any right, title, interest or privilege herein 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 the Superior Court of Rockdale County, Georgia. The written consent thereto of any mortgage holder affected thereby shall also be filed with such amendment. Every purchaser or grantee of any interest in any real property now or hereafter subject to these Covenants, by acceptance of a deed or other conveyance therefor, thereby agrees that these Covenants may be amended as provided in this Section.

ARTICLE VII

MISCELLANEOUS

7.01 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

7.02 Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

7.03 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

7.04 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

7.05 Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consent of any kind made pursuant to this Declaration, whether made by the Declarant, the ACC, any Owner, or any other person, shall be in writing. All such writings shall be sufficient only if deposited in the United States Mail, with sufficient postage, and sent to the following addresses:

(a) Declarant: Lochinver Development Partnership
c/o Alton Housworth, Jr.
889 Commerce Drive; Suite A
Conyers, GA 30094

(b) Owner: Each Owner's address as according to the
system of naming streets and numbering
houses then in effect in Rockdale
County, Georgia

Any written communication transmitted in accordance with this Section 7.05 shall be deemed received on the third (3rd) day following the day such written notice is deposited in the United States Mail.

7.06 No Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed, this 24th day September of, 1999.

Signed, sealed and delivered in the presence of:

Jackie Paradise
Witness

Lochinver Development Partnership

By: [Signature]
Gerald Sheppard, General Partner

A & D Partnership, General Partner

By: [Signature]
Alton Housworth, Jr.
General Partner

DSH Enterprises, Inc.
General Partner

By: [Signature]
It's President

[Signature]
Notary Public

