

**BY-LAWS**  
**Of**  
**IVEY GREEN HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE 1**

**DEFINITIONS**

The following terms as used in these By-Laws shall have the following respective meanings:

- (A) "Common Properties" shall mean and refer to those tracts of land and any improvements thereon which are deeded or leased to the Corporation and designated in said deed or lease as Common Properties, and shall also include any personal property acquired by the Corporation if said property is designated as Common Property; provided, however, that any property which is leased by the Corporation for use as Common Property shall lose its character as such upon the expiration of such lease.
- (B) "Corporation" shall mean and refer to Ivey Green Homeowners Association, Inc., a Georgian nonprofit corporation.
- (C) "Declaration" shall mean the Declaration of Covenants, Conditions, Restrictions and Easements for Ivey Green Trace Subdivision, together with any other declarations of special covenants, restrictions, rights, obligations or conditions filed of record against real property in Ivey Green Subdivision.
- (D) "Developer" shall mean or refer to DSM Development Corporation, a Georgia corporation, and its successors in interest, if any.
- (E) "Development Community" shall mean the Ivey Green Subdivision being developed by the Developer in Cobb County, Georgia as it now or hereafter exists.
- (F) "Member" shall mean any member of the Corporation as defined in Article II of these By-Laws.
- (G) "Exempt Property" shall mean any property exempted from the assessment, charges and liens created by the Declaration including, but not limited to, any lot owned by a builder holding title thereto solely for resale upon completion of the structure constructed thereon by such builder.

## ARTICLE II

### MEMBERS

**Section 1. Membership.** Every Owner of a lot in Ivey Green Subdivision which is not Exempt Property shall be a Member of the Corporation. The Developer shall also be a Member of the Corporation. For purposes of determining membership, the term "Owner" shall mean and refer to the Owner as shown by the Real Estate Records in the Office of the Clerk of the Superior Court of Cobb County, Georgia, whether the owner by one or more persons, firms, associations, corporations or other legal entities of fee simple title to any Residential Lot or Family Dwelling Unit situated in the Development Community other than Exempt Property, but shall not mean or refer to a mortgagee or holder of a security deed, unless and until such mortgagee or holder of a security deed, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or proceeding or deed in lieu of foreclosure and has held such title for a period of one (1) year. Nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner. In the event there is recorded in the Office of the Clerk of the Superior Court of Cobb County, Georgia, a long-term contract of sale covering any lot or parcel of land within the Development Community other than Exempt Property, the Owner of such lot or parcel of land shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond nine (9) months from the date of the contract and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

**Section 2. Voting Rights.** The Corporation shall have two (2) classes of voting membership:

- (a) Class A Members shall be all those Owners of Residential Lots and Family Dwelling Units other than Exempt Property with the exception of the Developer (except as set forth under Class B membership provision below). A Class A Member shall be entitled to one vote for each parcel of land other than Exempt Property owned by him.
- (b) The Class B Member shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events:
  - a. Seven (7) years from the date of the Declaration; or
  - b. When, in its discretion, the Developer determines; or
  - c. Upon the sale of seventy-five percent (75%) of the lots in the Development Community.
- (c) When any property entitling the Owner to Class A membership is owned of record in the name of two (2) or more persons or entities, whether fiduciaries, joint tenants in common, tenants in partnership or in any other manner of joint or common ownership, or if two or more persons or entities

have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Corporation, their acts with respect to vote shall have the following effect: (i) if only one votes, in person or by proxy, his act binds all; (ii) if more than one vote, in person or by proxy, the act of the majority so voting binds all; and (iii) if more than one vote, in person or by proxy, but the vote is evenly split on a particular matter, each fraction shall be entitled it proportionate share of the vote or votes.

The principles of this Section 2(c) shall apply, but not be limited to execution of proxies, waivers, consents or objections and for the purpose of ascertaining the presence of a quorum.

- (d) The voting rights of an Owner may be assigned by said Owner to his lessee who has entered into a lease with a term of two (2) years or more; provided, however, that the Owner may not assign to such lessee any vote or votes not attributable to the property actually leased by such lessee.

**Section 3. Additional Classes of Members.** The Corporation's Board of Directors, by affirmative action of a majority of its members then holding office, may create one or more additional classes of membership or affiliation with the Corporation and, with respect to each such additional class, may make and prescribe the designations, rights, privileges and powers and provide for the requirements of membership, assessments for charges of such Members. All such designations, qualifications and rights of the Members of each class shall be set forth in an Amendment to these By-Laws.

**Section 4. Annual Meeting.** The annual meeting of the Members of the Corporation shall be held at the principal office of the Corporation, or such other place as the Board of Directors in its discretion may determine, at a time and date within 120 days following the close of the Corporation's fiscal year and as the Board of Directors in its notice of annual meeting may direct. In the event such annual meeting is not held within the time prescribed above, through oversight or otherwise, the Board of Directors shall by resolution designate the time and place for a meeting to be held in lieu thereof, which time shall be as soon thereafter as is convenient, and any business transacted or elections held at such meeting shall be valid as it transacted or held at the annual meeting. At a meeting of the Members, the order of business shall be as determined by the Chairman of the meeting.

**Section 5. Special Meetings.** Special meetings of the Members shall be held at the principal office of the Corporation or at such other place as may be designated in the notice of said meetings, upon call of the Board of Directors or of the Chairman of the Board of Directors or of the President, or of the Secretary at the request in writing of two or more Directors or of Members being entitled to cast at least twenty-five (25) percent of the votes at any meeting of the Members.

**Section 6. Notice and Purpose of Meetings.** Notice of the date, hour and place within or without the State of Georgia of every meeting of Members, and in the case of any special meeting which is called, shall be in writing and shall be delivered not less than ten (10) days nor more than fifty (50) days prior to the date of the meeting either personally or by first class mail, but or at the direction of the President, the Secretary, or the officer or persons calling the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail with first class postage thereon addressed to the member at his last known address. The record date determining Members entitled to receive such notice shall be the first day in the calendar month in which said notice is mailed. Where membership is composed of two or more co-owners of property in the Development Community notice to any one of such co-owners shall constitute notice to all such co-owners. It shall be the obligation of every Member to immediately notify the Secretary of the Corporation in writing of any change of address. Notice of any meeting of Members shall not be required to be given to any Member who shall attend such meeting solely for the purpose of stating, at the beginning of the meeting, an objection to the time or place of the meeting, or to the manner in which it has been called or convened, or to the transaction of business. Nor shall notice of any meeting of Members be required to be given any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting, and neither the business transacted nor the purpose of the meeting need be specified in the Waiver. When a meeting is adjourned to another time or place, unless after the adjournment the Board fixes a new record date for the adjourned meeting, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken.

**Section 7. Quorum.** The presence either in person or by proxy of a majority of the votes entitled to be cast at any meeting of the Members shall constitute a quorum at any such meeting. When a quorum is once present to organize a meeting, the Members present may continue to do business at the meeting or at any adjournment thereof notwithstanding the withdrawal of enough Members to leave less than a quorum. If a quorum is not present to organize a meeting, persons representing a majority of the votes represented at the meeting may adjourn such meeting from time to time until a quorum be present to organize the meeting, and thereafter at any such adjourned meeting or any adjournment thereof, any business may be transacted which might have been transacted at the meeting originally called.

**Section 8. Voting.** Each Member of the Corporation shall be entitled to cast at any meeting of the Members those numbers of votes, according to the class or classes of his membership, as specified in Article II of these By-Laws. Such votes may be cast in person or by proxy, and entitlement to cast votes at any meeting shall be determined as of the record date for such meeting by ownership as shown by the public records of Cobb County, Georgia. Except as otherwise required by statute, by the Declaration, by the Articles of Incorporation or by these By-Laws, all matters coming before any meeting of the Members shall be decided by the votes of those Members holding at

least a majority of the total votes present in person or by proxy at such meeting, a quorum being present at the organization of such meeting.

**Section 9. List of Members.** A complete list of Members entitled to vote at a meeting of the Members, arranged in alphabetical order with the number and class of votes held by each, shall be prepared by the Secretary or other officer of the Corporation having charge of membership ledgers, and shall be produced and kept open at the time and place of the meeting and during the entire time of said meeting shall be open to the examination of any Member. If the requirements of this Section have not been substantially complied with, the meeting shall, on the reasonable demand of any Member in person or by proxy, be adjourned until the requirements are complied with. If no such demand is made, failure to comply with the requirements of this Section shall not affect the validity of any action taken at such meeting.

**Section 10. Action by Members Without Meeting.** Any action required by these By-Laws, the Georgia Nonprofit Corporation Code or otherwise to be taken at a meeting of the Members, or which otherwise may be taken at a meeting of the Members, may be taken without a meeting if written consent setting forth the action so taken shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

**Section 11. Suspension of Rights.** The membership rights of any Member whose interest in real property in the development Community is subject to the payment of dues, charges or assessments hereunder, may be suspended by action of the Board of Directors during any period when such dues, charges or assessments remain due and unpaid. Upon full payment of the dues, charges or assessments by the Member, his rights and privileges shall be automatically restored. For purposes hereof, membership rights shall include, among other things, the use and enjoyment of Common Properties and voting rights.

### **ARTICLE III**

#### **DIRECTORS**

**Section 1. Management Power, Number Qualification and Term.** The property, affairs and business of the Corporation shall be managed by its Board of Directors, consisting of not less than three (3) nor more than fifteen (15) persons, the exact number of which shall be fixed by a resolution of the Directors from time to time, except that the number of initial members of the Board of Directors shall be fixed by the Articles of Incorporation. Directors shall be 21 years of age or over and shall be elected at the annual meeting of the Members. Each Director shall be elected to serve until the next annual meeting and until his successor shall be elected and shall qualify.

**Section 2. General Powers.** In addition to the power and authority conferred upon the Board of Directors by these By-Laws, by the Articles of Incorporation and by the

Declaration, the Board may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute, by any legal agreement among the Members, by the Articles of Incorporation, by the Declaration or by these By-Laws directed or required to be exercised or done by the members or by the Developer. Without limiting the generality of the foregoing, the Board of Directors shall fix and impose the amount of assessments against each parcel of property in the Development Community and shall establish such rules and regulations as the Board shall be required to establish under the Declaration, the Articles of Incorporation, these By-Laws or any statute.

**Section 3. Compensation.** The Directors shall be voluntary positions and as such will not receive remuneration or compensation for their services. However, they may receive reimbursement for their out-of-pocket expenses where they incur travel expenses in attending annual or special meeting as the Members may from time to time determine. Receipts are required for reimbursement.

**Section 4. Meetings.** Meetings of the Board of Directors shall be held at such place, either within or outside the State of Georgia, as may from time to time be fixed by resolution of the Board of Directors, or as may be specified in the notice of meeting. Regular meetings of the Board of Directors shall be held at such times as may from time to time be fixed by resolution of the Board of Directors, and special meeting may be held at any time upon the call of the President or Chairman of the Board or the Secretary or any two Directors by oral, telegraphic or written notice of the time and place of such meeting, duly served on or sent or mailed to each Director not less than one day before the meeting. A meeting of the Board of Directors may be held without notice immediately after the annual meeting of the Members. Notice need not be given of regular meetings of the Board of Directors held at times fixed by resolution of the Board of Directors. No notice of any meeting need be given any Director who attend such meeting, unless any such Director at the beginning of such meeting states an objection to the place or time of the meeting, to the manner in which it has been called or convened or to the transaction of business. Further, notice shall not be required to be given any Director who at any time before or after the meeting waives notice of the meeting in writing.

**Section 5. Quorum.** A majority of the number of Directors stated in the Articles of Incorporation or the number last fixed by the Directors, as the case may be, present at a meeting duly assembled, shall constitute a quorum for the transaction of business, unless otherwise specifically required by statute or by the articles of Incorporation or the Declaration. All actions taken at a meeting at which a quorum is present shall be the act of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting, without further notice, from time to time until a quorum shall have been obtained.

**Section 6. Vacancies.** In case one or more vacancies shall occur on the Board of Directors by reason of death, resignation, increase in the number of Directors or

otherwise, the remaining Directors, although less than a quorum, may be a majority vote elect a successor or successors for the unexpired term or terms. If the vacancy has not been so filled, then at any meeting of the Members, the Members at such meeting may fill such vacancy.

**Section 7. Removal of Directors.** Any Director may be removed from office, with or without cause, by the vote or written consent of Members representing not less than the majority of votes.

**Section 8. Action without Meeting.** Any action required or permitted by these By-Laws or otherwise to be taken at any meeting of the Board of Directors or of the Executive or any other committee established by the Board may be taken without a meeting, if written consent setting forth the action so taken shall be signed by all of the Members of the Board or such committee, as the case may be, and such written consent is filed with the minute of the Board or of the committee, as the case may be.

## ARTICLE IV

### EXECUTIVE AND OTHER COMMITTEES

**Section 1. Executive and other Committees.** The Board of Directors may, by resolution passed by a majority of the whole Board, designate an Executive Committee and one or more other committees, each consisting of three or more Directors, each of which committees may act by a majority of its members. Such Executive Committee shall have and may exercise all the powers of the Board of Directors in the management of the business and affairs of the Corporation when the Board is not meeting; and each committee shall have such powers of the Board as are provided in the resolution established by the Board shall have the power (1) to amend the Articles of Incorporation or the By-Laws; (2) to adopt a plan of merger or consolidation; (3) to sell, lease, exchange or otherwise dispose of all or substantially all of the assets and property of the Corporation; (4) to voluntarily dissolve or revoke a voluntary dissolution of the Corporation; (5) to impose assessments against property in the Development Community (although calculation of assessments may be performed by committee); or (6) to take any action which is required by the Declaration, Articles of Incorporation, these By-Laws or any statute to be taken by greater than a majority of the members of the Board of Directors.

**Section 2. Committee Records.** The Executive Committee shall keep records of all its transactions, which shall be presented at each meeting of the Board of Directors. The Board of Directors shall have the power to disapprove, rescind and nullify any act or transaction of the Executive Committee. All actions and transactions of the Executive Committee which are not disapproved, rescinded or nullified shall be held and taken to be approved and confirmed by the Board of Directors.

**Section 3. Board Action.** The Board of Directors may at any meeting:

- (a) To establish by resolution such rules and regulations for the Executive Committee and other committees not inconsistent with these By-Laws or the Declaration as may be deemed desirable;
- (b) To remove at will any Director from the Executive Committee or other committees or remove any consultant employed by the Executive Committee or any other committee;
- (c) To decrease or enlarge the size of the Executive Committee or other committees; and
- (d) To elect an entirely new set of Directors for the Executive Committee or other committees, or replace any Director or Directors on the Executive Committee or other committees with another Director or Directors.

**Section 4. Committee Rules.** Except as may otherwise be provided in Section 1 of this Article, the rules established by these By-Laws with respect to meeting of Directors and Notice, Quorums, Voting and other procedure at such meetings shall be applicable to meeting of the Executive and any other committees established by the Board of Directors.

## **ARTICLE V**

### **OFFICERS**

**Section 1. Number.** The Board of Directors as soon as may be after the election thereof held in each year, shall elect a President (who shall also serve as Chairman of the Board of Directors), Secretary and Treasurer, and from time to time may appoint one or more Vice Presidents and such other officers, agents and employees as it deems proper. Any two or more offices may be held by the same person, except the offices of President and Secretary.

**Section 2. Term and Removal.** All officers shall be elected by and serve at the discretion of the Board of Directors and any officer may be removed from office, with or without cause, at any time, by the affirmative vote of a majority of the members of the Board of Directors then in office. Any vacancy of any office occurring for whatever reason may be filled by the Board of Directors.

**Section 3. Powers and Duties.** The officers of the Corporation shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as generally pertain to their respective offices, as well as such powers and duties as from time to time may be conferred upon them by the Board of Directors. Without limiting the foregoing:

- (a) The Chairman of the Board shall preside at the meetings of the Members and Directors;

- (b) The President shall be the chief executive officer of the Corporation and shall have general supervision of the affairs of the Corporation and full control of and responsibility for said affairs;
- (c) The Secretary shall issue notices for and keep minutes of all corporate meetings and shall have charge of the corporate seal and other corporate books and records;
- (d) The Treasurer shall have custody and control of all funds and of all financial records of the Corporation; and
- (e) Except as otherwise required by law or the Declaration, the Board of Directors by resolution may authorize any officer or officers of the Corporation to negotiate and execute contracts to buy, sell, lease or exchange any and all of the real estate or other property of the Corporation, and to negotiate and enter into loans to be secured by notes, pledges, deeds to secure debt, mortgages and/or other instruments encumbering the property of the Corporation, all without prior approval of the Board of Directors.

**Section 4. Compensation.** All positions on the Board of Directors to include all members of all committees (to include the Executive Committee) are voluntary positions. As such, as all voluntary positions, there is no compensation for any of the members of the Board of Directors. Members of the Board of Directors may be reimbursed for any out of pocket expenses they may incur in the execution of their position on the Board of Directors. Receipts are required for reimbursement.

## **ARTICLE VI**

### **INDEMNIFICATION**

The Corporation shall indemnify its officers, Directors, employees and agents to the extent allowed by law.

## **ARTICLE VII**

### **FISCAL YEAR**

The fiscal year of the Corporation shall be such period as the Board of Directors shall determine, and unless otherwise so determined, shall begin on the first day of January of each year and end on the last day of December of each year.

## **ARTICLE VIII**

### **CORPORATE SEAL**

This seal of the Corporation shall consist of an impression bearing the name of the Corporation around the perimeter and the "Seal" or "Corporate Seal" and the year of incorporation in the center thereof. In lieu thereof, the Corporation may use an impression or writing bearing the words "Corporate Seal", enclosed in parenthesis or scroll which shall also be deemed the seal of the Corporation.

## **ARTICLE IX**

### **AMENDMENTS**

The By-Laws of the Corporation shall be subject to alteration, amendment or repeal and new By-Laws not inconsistent with any statutory provisions or with any provision of the Articles of Incorporation or Declaration may be made either (1) by the affirmative vote of Members entitled to cast a majority of the outstanding votes of the Corporation's membership, provided if so acted upon at a special meeting, that notice of the proposal so to make, alter, amend or repeal the By-Laws or adopt new By-Laws be included in the notice of the meeting; (2) by the affirmative vote of a majority of all Directors then holding office at any regular or special meeting of the Board of Directors; or (3) by the unanimous written consent of either all of the Members or all of the Directors. Provided, however, the Directors shall not be entitled to alter, amend or repeal any By-Laws which the Members direct shall not be altered, amended or repealed by the Directors. Provided further, however, that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments to these By-Laws until such time as the Class B membership shall cease.

## **ARTICLE X**

### **CONFLICTS**

In case of any conflict between these By-Laws and the Declaration, the Declaration shall control, and for this purpose, the Declaration is incorporated and made a part of these By-Laws by reference. However, the Declaration shall be subject to repeal, amendment or rescission only as specified in the Declaration.