

AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS FOR WYNDCLIFF

DECEMBER 5, 2018

IMPORTANT NOTICE:

CLOSING ATTORNEYS MUST CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING BOTH ASSESSMENTS/CHARGES DUE ON LOTS AND ANY UNCURED VIOLATIONS OR UNAUTHORIZED IMPROVEMENTS TO LOTS. THIS DECLARATION SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, *ET SEQ.*



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1. NAME

The name of the Community is Wyndcliffsm, formerly known as Wyndcliff at Town Center, which is a residential property owners' development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended.

2. DEFINITIONS

Unless the context otherwise requires, capitalized terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as set forth in this Paragraph 2. Otherwise, the terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code.

A. Act means the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended.

B. Architectural Review Committee or ARC means the committee established to exercise the advisory functions set forth herein.

C. Articles of Incorporation or Articles means the Articles of Incorporation of Wyndcliff at Town Center Homeowners Association, Inc., filed with the Secretary of State of the State of Georgia.

D. Association means Wyndcliff at Town Center Homeowners Association, Inc., a Georgia nonprofit corporation, its successors or assigns, which, for convenience, may do business as Wyndcliff Homeowners Association, Inc.

E. Association Legal Documents means this Declaration and all exhibits hereto, the Bylaws, the Articles of Incorporation, the plats and all rules and regulations and architectural guidelines for the Association, all as may be supplemented or amended.

F. Authorized Corporate Occupant means an officer, director, shareholder, member or employee of an Owner that is a corporation; a manager or member of an Owner that is a limited liability company; a partner of an Owner that is a partnership; or a trustee or beneficiary of an Owner that is a trust; provided the Owner receives no rent or other consideration for such occupancy from the Authorized Corporate Occupant or any other Person. The name of each Authorized Corporate Occupant and all other persons occupying a dwelling on a Lot with an Authorized Corporate Occupant shall be designated in writing to the Board and may not be changed more frequently than once every 24 months without the Board's written consent. A person's designation as an Authorized Corporate Occupant shall terminate automatically upon the termination of such person's relationship with the entity holding record title to the Lot.

G. Board or Board of Directors means the body responsible for management and operation of the Association.

H. Bylaws means the Bylaws of Wyndcliff at Town Center Homeowners Association, Inc., attached hereto as Exhibit "C" and incorporated herein by reference.

I. Common Property means any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

J. Common Expenses means the expenses incurred or anticipated to be incurred for the general benefit of the Association or of the Community or Lots, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Property.

K. Community means that real estate which is submitted to the Act and the provisions of this Declaration, as described in Exhibit "A" attached hereto and incorporated herein by reference. The Community is a residential property owners' development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended.

L. Community-Wide Standard means the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors.

M. Declaration means this Amended and Restated Declaration of Protective Covenants for Wyndcliff.

N. **Director** means a member of the Association's Board of Directors.

O. **Domestic Partner** means any adult who cohabitates with an Owner in the dwelling on a Lot, not as a Roommate occupying separate bedrooms, but as a partner or cohabitant who has been designated as the Owner's Domestic Partner in a written statement, signed by the Owner and filed with the Association's Secretary, which statement assigns such person authority to act on behalf of the Owner in all Association matters, either in the Owner's place or in conjunction with the Owner. A person shall no longer be a Domestic Partner upon the Secretary's receipt of a written termination notice, signed by either the Owner or the Domestic Partner.

P. **Effective Date** means the date that this Declaration is recorded in the Cobb County, Georgia land records.

Q. **Eligible Mortgage Holder** means a holder of a first Mortgage secured by a Lot who has submitted an express request in writing to the Association to be deemed an Eligible Mortgage Holder. Such notice must include the mortgage holder's name and address and the Lot number or address of the property in the Community secured by such mortgage.

R. **Lot** means a portion of the Community intended for ownership and use as a single-family dwelling site subject to this Declaration, as shown may be on the Plats for the Community recorded in the Cobb County, Georgia land records.

S. **Mortgage** means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.

T. **Mortgagee** or **Mortgage Holder** means the holder of any Mortgage.

U. **Occupant** means any person staying overnight in a dwelling on a Lot for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year.

V. **Officer** means an individual who is elected by the Board of Directors to serve as President, Vice President, Secretary, or Treasurer, or to hold such other office as may be established by the Board of Directors.

W. **Owner** means the record title holder of a Lot, but shall not include a Mortgage Holder. For purposes hereof, the holder of a tax deed on a Lot shall be deemed the Owner thereof, notwithstanding the fact that there may exist a right of redemption on such Lot.

X. **Person** means any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.

Y. **Plats** means those plats of the survey relating to the Community filed in the Plat Books of the Cobb County, Georgia land records. All of the Plats of survey are incorporated herein by this reference.

Z. **Roommate** means an Occupant of a dwelling on a Lot who occupies the dwelling with the Owner, Authorized Corporate Occupant, or authorized tenant hereunder, but who is not: (i) the Owner of the Lot; (ii) the spouse, Domestic Partner or Authorized Corporate Occupant of such Owner; or (iii) the parent or child of the Owner.

AA. **Violator** means any Owner who violates the Association Legal Documents and any Owner's family member, guest or Occupant who violates such provisions; provided, however, if an Owner's family member, guest or Occupant violates the Association Legal Documents, the Owner of the Lot also shall be considered a Violator.

3. SUBMITTED PROPERTY AND ADDITIONAL PROPERTY

A. **Submitted Property**

The real property in the Community subject to this Declaration and the Act is located in Land Lot 568 of the 16th District, 2nd Section, Cobb County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration and incorporated herein by this reference and as may be shown on the Plats.

4. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

A. **Membership**

The Association shall have one class of membership. Each Lot Owner shall be a member of the Association. This does not include Persons who hold an interest merely as security for the performance of an

obligation. The giving of a security interest shall not terminate an Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot owned in the Community. An Owner's spouse or Domestic Partner may exercise all membership rights and privileges of the Owner.

B. Voting

The Owner(s) of the Lot shall be entitled to one equally weighted vote for such Lot, which vote may be exercised and suspended as provided in this Declaration and the Bylaws.

5. ALLOCATION OF LIABILITY FOR COMMON EXPENSES

A. General Allocations

Except as provided below, or elsewhere in the Act or the Association Legal Documents, the amount of all Common Expenses shall be assessed against all the Lots equally.

B. Specific Special Assessments

Notwithstanding the above, the Board of Directors shall have the power to levy specific special assessments pursuant to Section 44-3-225(a) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board to do so shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

6. ASSESSMENTS

A. Purpose of Assessment

The Association shall have the power to levy assessments as provided herein and in the Act. Assessments shall be used for any purpose the Board of Directors determines will benefit the Association, the Owners or the Community.

B. Creation of the Lien and Personal Obligation For Assessments

Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all assessments and other charges levied pursuant to this Declaration and the Bylaws.

All assessments and charges levied against a Lot and its Owner, together with interest, costs and reasonable attorneys' fees actually incurred (including post-judgment attorneys' fees, costs and expenses), and rents (if the Board of Directors so elects), in the maximum amounts permitted under the Act, shall be: (1) a charge and a continuing lien against such Lot; and (2) the personal obligation of the Person who is the Owner of the Lot on the due date of the assessment. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance of the Lot. The Association, in the Board's discretion, may record a notice of such lien in the Cobb County, Georgia land records evidencing the lien created under the Act and this Declaration. The lien provided for herein shall have priority as provided in the Act.

Assessments shall be paid in such manner and on such dates as determined by the Board of Directors. No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever.

C. Delinquent Assessments

All assessments and charges not paid on or before the due date shall be delinquent, and the Owner shall be in default. In addition to the powers set forth below for collection of unpaid assessments and charges, the Association shall be entitled to exercise all other rights and remedies provided by law and in equity to satisfy an Owner's debt.

If any assessment or charge, or any part or installment thereof, is not paid in full within 10 days of the due date, or such later date as may be provided by the Board of Directors:

(i) a late charge equal to the greater of \$10.00 or 10% of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner;

(ii) interest at the rate of 10% per annum, or such higher rate as may be authorized by the Act, shall accrue from the due date;

(iii) if the Board permits payment of the annual assessment in installments, the Board may accelerate and declare immediately due any unpaid installments of that Owner's assessments and charges. Upon acceleration, the Owner shall lose the privilege of paying such assessments and charges in installments, unless the Board otherwise reinstates such privilege in writing. If the Association has pending legal action against an Owner for unpaid assessments or charges, then no notice shall be required to accelerate unpaid installments of any annual or special assessments that come due during any fiscal year after such legal action commences, until all amounts owed are paid in full or the Board otherwise reinstates such privilege in writing;

(iv) the Board may suspend privileges of the delinquent Owner, his or her Occupants, family, guests and invitees, to drive and/or park vehicles on Common Property roads and parking areas, and tow violating vehicles in accordance with this Declaration, in addition to all other available remedies;

(v) the Board may suspend privileges, benefits and/or services provided to the Owner and/or Owner's Lot by the Association as a Common Expense; and

(vi) the Association may bring legal action to collect all sums owed under the Declaration and Georgia law.

In addition to the above, the Board may charge a reasonable administrative fee, in accordance with Paragraph 5(B) above, for restoring benefits, services and/or Common Property use privileges of an Owner whose privileges were suspended hereunder. If assessments or other charges, or any part thereof, remain unpaid more than 30 days after the due date, the Owner's right to vote and use the Common Property may be suspended until all amounts owed are paid in full or the Board of Directors otherwise reinstates such rights in writing.

If part payment of assessments or other charges is made, then unless otherwise determined by Board resolution, the amount received may be applied first to post-judgment attorneys' fees, costs and expenses, then to costs and attorneys' fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies that are created by the application of current payments to outstanding delinquent assessments or charges.

D. Computation of Operating Budget and Assessment

To establish the annual assessment for a fiscal year, the Board of Directors shall prepare a budget covering the estimated costs of operating the Community, which may include a reserve contribution as provided below. The Board shall make the budget available to the Owners at least 30 days before the due date of such assessment, or the first installment thereof. The Board may post the budget on an Association website as a means of making the budget available to the Owners. The budget and the assessment shall become effective unless, before the due date of such assessment, a majority of the total Association membership votes to disapprove the budget and assessment at a duly called membership meeting held before the first installment due date for such assessment.

If the membership disapproves the proposed budget or the Board of Directors fails for any reason to determine a new budget, the budget and annual assessment then in effect shall continue until a new budget is adopted as provided herein. The Board may adopt an adjusted budget and revised annual assessment at any time during the year following the procedure specified above.

The budget shall not operate as a limitation on expenditures by the Board of Directors. The budget is merely an estimate of Common Expenses on which the Board establishes the annual assessment.

E. Special Assessments

In addition to the annual assessment provided for in subparagraph (D) above and other assessments authorized under this Declaration or the Bylaws, the Board may at any time levy a special assessment against all Owners, with notice thereof sent to all Owners. However, any special assessment which would cause the total of special assessments levied against any Lot in one calendar year to exceed 50% of the annual assessment applicable to that Lot first must be approved by at least a majority of those Owners either voting by ballot or written consent under the Bylaws, or present or represented by proxy at a duly called special or annual meeting of the members, notice of which shall specify that purpose.

F. Capital Budget and Contribution

The Board of Directors may prepare an annual or multi-year capital reserve budget and may establish a capital reserve fund contribution based on such budget. Capital reserve budgets should take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board may perform or have performed a capital reserve study to assist in determining an appropriate capital reserve contribution.

G. Capital Contribution Assessment Upon Transfer of Lots

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In addition to all other assessments and charges provided for herein, the purchaser or grantee thereof shall be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment") upon each and any conveyance or transfer of a Lot to any Person other than: (1) the spouse or Domestic Partner of an Owner; (2) the heir of a deceased Owner; or (3) a then-existing member of the Association purchasing a Lot. The Capital Contribution Assessment shall be assessed in a conveyance or transfer of a Lot incident to the foreclosure of a Mortgage on a Lot.

The Board shall set the Capital Contribution Assessment annually at an amount not to exceed the amount of the annual assessment applicable to such Lot. The Capital Contribution Assessment shall not constitute an advance payment of the annual assessment. The Capital Contribution Assessment shall constitute a specific special assessment against such Lot, a continuing lien against such Lot, and a personal obligation of the Owner of such Lot.

H. Foreclosure Administration Fee

It is recognized that foreclosures of Mortgages on Lots create substantial administrative and other burdens on the Association. These additional burdens on the Association include, but are not limited to, having to monitor the status of Mortgages and legal periodicals to determine when foreclosures occur, searching the Cobb County, Georgia land records to determine the names of the purchasers at foreclosure sales, contacting the foreclosure purchasers/owners regarding foreclosure-purchaser responsibilities and assessment obligations, disproportionate numbers of and incidents of updates to Association records related to a single Lot. Pursuant to this Declaration and Section 44-3-225(a) of the Act, the Association is authorized to assess individual Owners certain fees and expenses occasioned by and benefiting just those Owners or those Owners' Lots. In accordance with these provisions, and in addition to annual assessments, special assessments, and other charges provided for in this Declaration, any Person who acquires a Lot at a foreclosure sale of the Mortgage on such Lot, or by deed in lieu of a foreclosure, will be required to pay the Association a Foreclosure Administration Fee at the time the foreclosure deed or deed in lieu of foreclosure is recorded in the Cobb County, Georgia records, in an amount equal to the annual assessment applicable at such time. The Foreclosure Administration Fee shall constitute a specific assessment as described in this Declaration.

I. Statement of Account

Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments and charges due and unpaid, including but not limited to any late charges, interest, fines, attorneys' fees or other charges against such Lot. The Association shall respond in writing within five business days of receipt of the request for a statement, or such longer time as authorized by the Act; provided, however, the Association may require the payment of a reasonable fee, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein, if such statement is reasonably relied upon in connection with the sale or conveyance of any Lot or the issuance or refinance of any Mortgage on such Lot. The Association also may require the payment of a reasonable fee for other services and/or documents requested and provided in connection with the sale or conveyance of a Lot or the issuance or refinance of a Mortgage on a Lot.

J. Surplus Funds and Common Profits

Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, be: (1) distributed to the Owners; (2) credited to the next assessment chargeable to the Owners; or (3) added to the Association's capital reserve account(s).

7. MAINTENANCE RESPONSIBILITY

A. Owner's Responsibility

Except as provided in subparagraph (B) below, all maintenance of the Lot and of the portion of right-of-way between the Lot and immediately adjacent street curb shall be the responsibility of the Owner thereof, and the Owner shall maintain such items in good repair, condition and order, consistent with the Community-Wide Standard. Owners of Lots located at street intersections shall be responsible for landscaping and maintaining their Lot in a way that allows for clear and visible sightlines across these intersections.

Except as provided in subparagraph (B) below, the Owner's maintenance responsibility shall include but not be limited to all maintenance and repair of:

- (i) the dwelling and all improvements on the Lot, including, but not limited to, prompt repair of all damage thereto, and timely pressure washing, cleaning and painting thereof;
- (ii) all landscaping on the Lot, including timely mowing, edging, pruning, weed removal and lawn treatment;
- (iii) all hardscaping, fencing, and mailboxes on the Lot;
- (iv) all portions of the HVAC or heating and air conditioning system and components located on or serving the Lot; and
- (v) all pipes, lines, ducts, conduits, or other apparatus which serve only the Lot, whether located inside or outside the Lot's boundaries (including but not limited to gas, electricity, water, sewer and telecommunication lines).

All maintenance, repairs and improvements of or to the Lot required to be performed or performed by an Owner hereunder shall be performed consistent with this Declaration and the Community-Wide Standard established by the Board of Directors. Any maintenance, repair or improvement which involves an exterior change, including, without limitation, staining or repainting of the exterior of improvements in a different color, or modifying landscaping or hardscaping, shall require prior approval of the Board or its designee pursuant to Paragraph 8 of this Declaration.

Except as provided herein or authorized in writing by the Board, no Owner or Occupant shall perform any maintenance or repair on the Common Property. Any such maintenance or repair performed on or to the Common Property by an Owner or Occupant which is the responsibility of the Association hereunder shall be performed at the sole expense and risk of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement or compensation from the Association even if the Association accepts the maintenance or repair.

B. Association's Responsibility

Except as provided below or in subparagraph (A) above, the Association shall maintain and keep in good repair the Area of Common Responsibility, which includes the Common Property and such other property as may be provided for in this Declaration, in a manner consistent with the Community-Wide Standard.

This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping grass areas, paving and other improvements situated on the Common Property. The Association shall maintain and keep in good repair all Community traffic control, safety and street signs, to the extent not maintained by a governmental entity. The Association shall also maintain and keep in good repair all water and sewer pipes or facilities which serve more than one Lot, whether located within or without the Lot's boundaries, to the extent that such pipes and facilities are not maintained by public, private, or municipal utility companies. Additionally, the Association shall maintain all entry features for the Community, including landscaping and any irrigation system comprising for such entry features, regardless of whether located on Common Property, Lots or public right-of-way. Further, the Association shall maintain and keep in good repair all storm water detention ponds that serve the Community, regardless of whether located on Common Property, Lots, or public right-of-way.

All maintenance, repair and improvement required or performed under this Paragraph 7 shall be performed consistent with the Community-Wide Standard. The Association also shall have the right, but not the obligation, to maintain other property not owned by the Association where the Board has determined that such maintenance would benefit the Community or Owners. At any point thereafter, the Board can cease to maintain such property and such maintenance obligation will revert back to the party originally responsible therefor.

If, during the course of performing its maintenance responsibilities hereunder, the Board discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's sole expense, without prior notice to the Owner.

If the Board of Directors determines that the need for maintenance or repair on the Common Property, or on any other property maintained by the Association, is caused through the willful or negligent act of any Owner or Occupant or his or her family member, guest, tenant or invitee, then the Association may charge the cost of any such maintenance, repair or replacement as a specific special assessment against the Owner's or Occupant's Lot and the Owner thereof.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Lot, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow

from any portion of the Common Property or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, unless such injury or damage results directly and solely from the gross negligence of the Association. The Association shall not be liable to any Owner, Occupant, family member, guest, tenant or invitee for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a direct, foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

It is understood that any failure of an Owner or Occupant to promptly report Common Property or Lot conditions causing damage to his or her Lot or the Common Property, when the Owner or Occupant has knowledge or notice of such condition, or to provide the Association with all necessary access onto the Lot to investigate any such condition (if applicable), could result in unnecessary damage to the Community, and the Owner and/or Occupant may be held jointly and severally responsible for such damages. Except to the extent of proceeds of insurance available under the hazard insurance policy maintained by the Association under this Declaration, each Owner and Occupant at the Community hereby releases and fully indemnifies the Association for all claims of damage or liability related to or resulting from such Owner's and/or Occupant's failure to discharge maintenance, repair and reporting obligations existing under this Paragraph.

C. Failure to Maintain

If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her maintenance, repair or replacement obligations pursuant to this Paragraph, then the Association shall have self-help powers to enter the Lot and correct the condition, or portions thereof, as provided herein and in the Bylaws, after the Association gives the Owner written notice of: (1) the Owner's failure or refusal; (2) the Association's right to provide necessary maintenance, repair, or replacement at the Owner's sole cost and expense; and (3) the maintenance, repair, or replacement deemed necessary by the Board.

Unless the Board determines that an emergency exists or a violation is re-occurring for which notice previously has been issued hereunder, the Owner shall have 10 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within 10 days. If the Board determines that an emergency exists, a violation is re-occurring for which notice has been previously issued hereunder, or an Owner has not complied with the demand given by the Association hereunder, the Association may provide any such maintenance, repair or replacement, the costs of which shall be a specific special assessment against the Owner and the Lot.

D. Maintenance Standards and Interpretation

The Board of Directors may establish, interpret and enforce maintenance standards for the Community. These standards may vary over time, however, the variances shall not constitute a waiver by the Board of the right to establish and enforce maintenance standards under this Paragraph. No Board decision or interpretation regarding maintenance standards shall constitute a binding precedent with respect to subsequent Board decisions or interpretations.

8. ARCHITECTURAL CONTROLS

A. Architectural Review Committee

The Board may appoint an Architectural Review Committee ("ARC") as a standing committee of the Association to perform the functions and exercise the powers provided in this Paragraph. The ARC shall serve at the pleasure of the Board.

B. Limitation on Exterior Modifications

Except as otherwise provided herein, no Owner, Occupant, or any other person may, without written approval of the Board or ARC:

- (i) construct any dwelling or other improvement on a Lot;
- (ii) make any change or alteration that affects the exterior appearance of the Lot or of any structures, improvements, landscaping or grading on the Lot, including but not limited to the planting or removal of trees or shrubbery; or

(iii) erect, place or post any object or thing on the Lot that affects the exterior appearance of the Lot.

Additionally, no modification shall be made on or encroach onto the Common Property unless expressly approved in writing by the Board, and any such written approval shall not create a permanent easement over the Common Property unless the Association expressly grants such easement in writing.

C. Standards and Interpretation

The Board of Directors may establish, amend and publish written design standards ("Design Standards") and/or Community-Wide Standards for modifications that affect the exterior appearance of Lots. These standards may vary for different parts of the Community, based on street visibility, the location of the proposed modification or Lot, and whether the Lots are corner Lots or interior Lots. Any standards established by the Board hereunder may be amended or vetoed by a majority of the total Association vote. No Board decision or interpretation regarding such standards shall constitute a binding precedent with respect to subsequent Board decisions or interpretations. Further, the Board of Directors may establish, amend, and publish mailbox assembly specifications ("Mailbox Assembly Specifications") which shall include the specific list of approved mailbox manufacturers and models as well as installation and maintenance requirements for mailboxes on Lots. All mailboxes shall meet the requirements of the Mailbox Assembly Specifications as promulgated by the Board. The Mailbox Assembly Specifications may be published as a part of the Design Standards or separately.

D. Application Process and Review

The Board of Directors may establish procedures, forms, conditions, requirements and reasonable fees for the submission of applications for modifications to the exterior appearance of a Lot. Such applications shall be in writing. If the application requests any variance from provisions of this Declaration or any published Design Standards or Community-Wide Standards related to the exterior appearance of the Lot, the Owner must expressly identify such variance in the application. No approval issued hereunder shall authorize such a variance unless that variance is expressly identified as a variance in the application and specifically approved in writing by the Board.

Except as may otherwise be determined by the Board, the Board or ARC shall be the sole arbiters of such application.

The standard for approval of such modifications shall include, but not be limited to: (1) aesthetic consideration; (2) materials to be used; (3) compliance with the Design Standards or Community-Wide Standards, this Declaration, or other standards which may be established by the Board; (4) harmony with the external design of the existing dwellings, Lots and structures, and the location in relation to surrounding structures and topography; and (5) any other matter deemed to be relevant or appropriate by the Board. The Board shall approve any request that it determines, in its reasonable discretion, to be in substantial compliance with such standard for approval.

E. Ruling on Application

If the Board or ARC fails to approve or to disapprove such application within 30 days after the application and all required information have been submitted, the Owner submitting the application may issue written notice, via certified mail, to the Association's President or property manager, informing the President or property manager of the Owner's intent to proceed with the modification as identified in the application. Unless the Association issues a written disapproval of the application within 15 days of receipt of the Owner's notice, the approval will not be required and this subparagraph will be deemed complied with as to the items specifically identified in the application. However, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any modification that is otherwise in violation of the Association Legal Documents, the published Design Standards, or of any applicable zoning or other laws. Except as provided in this subparagraph, no approval of a modification whatsoever shall be valid unless issued in writing. Owners may not rely on any verbal approval or statements from any person as the approval required for a modification.

F. Appeal

If the Board of Directors or ARC disapproves any application or part thereof, an Owner may, in writing, appeal the decision. The notice of appeal must be sent to the Board by certified mail and received by the Board within 15 days from the date of the Board's or ARC's disapproval notice, or the decision of the Board or ARC shall become final and all rights of appeal shall terminate. Within 15 days of receipt of a timely appeal, the Board shall either notify the Owner in writing that additional time is needed to more fully consider the Owner's appeal, or approve, disapprove or conditionally approve the Owner's application, and such ruling shall be final and binding on the Owner. The Board may request that the Owner meet with the Board to review the appeal.

G. Commencement and Completion of Construction

All modifications approved hereunder must be commenced within 120 days from the date of approval, or such approval shall be deemed revoked, unless the Board or ARC gives a written extension for commencing the work. All work approved hereunder shall be completed in its entirety within 120 days from the date of commencement, unless otherwise agreed in writing by the Board.

H. Professional Consultants and Fees

The Board of Directors shall be authorized to charge, as a specific special assessment, against any Owner and Lot: (1) a reasonable administrative fee for review of modifications on, or submitted plans for, such Lot; and (2) reasonable fees for any architect, engineer or other professional consultant engaged by the Board to assist with review of modifications on, or submitted plans for, such Lot. Any professional consultants fees shall constitute specific assessments as described in this Declaration. The Board shall determine the amount of any such administrative fee not more frequently than annually. The Board shall notify the Lot Owner of any applicable professional consultant's fee, and the reason for such fee, at least 10 days before such fee is incurred.

I. Limitation of Liability

The Association, Board of Directors, ARC, managing agents and members thereof, are not responsible for ensuring, and shall not be held liable for any injury, damage, claim or loss arising out of: (1) the design, quality, structural integrity or soundness of any modification on a Lot; (2) any modification's compliance with building codes, zoning regulations or other governmental requirements; (3) the impact of the modification on the Lot or other Lots; or (4) the duration of the review process under this Paragraph 8.

9. USE RESTRICTIONS

Each Owner shall be responsible for ensuring that the Owner's family, guests, invitees, tenants and Occupants comply with all provisions of the Association Legal Documents. In addition to the following use restrictions, the Board of Directors may establish rules and regulations in accordance with the terms hereof and as specified in the Bylaws.

A. Residential Use

Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any portion of the Community, except that the Owner or Occupant residing in a dwelling on a Lot may conduct ancillary business activities within the dwelling so long as:

- (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the dwelling;
- (ii) the business activity does not involve visitation or deliveries to the Lot by employees, clients, customers, suppliers, couriers, mail carriers, or other business invitees in greater volume than would normally be expected for a Lot without business activity;
- (iii) the business activity does not involve use of the Common Property, except for necessary access to and from the Lot by permitted business invitees;
- (iv) the business activity is legal and conforms to all zoning requirements for the Community;
- (v) the business activity does not increase any insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage; and
- (vi) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other Owners or Occupants, as determined in Board of Director's discretion.

The Association has no liability for any business activity in the Community. The Association also has no liability for any action or omission by it, its Directors, Officers, agents, managing agents, representatives and/or vendors, that may adversely impact an Owner's or Occupant's business activity. Each Owner and Occupant hereby releases and holds harmless the Association, its Directors, Officers, agents, representatives and/or vendors, for any interruption or suspension of, or any damages to, any business activities conducted on a Lot. Owners and Occupants shall obtain whatever supplemental insurance may be necessary to protect their business assets, business continuity and business interests on their Lots. The Association is not obligated to obtain any insurance coverage for any Owner's or Occupant's business activity.

The term "business," as used in this provision, shall include, without limitation, any occupation, work or activity that involves the provision of goods or services to persons other than the provider's family for a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

B. Number of Occupants

Unless more restrictive limitations are imposed or authorized by any applicable governmental authority, no more than two Occupants per bedroom are permitted in the dwelling, as such bedrooms are depicted on the plans for such dwelling approved by the applicable governmental agency. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a dwelling on the Effective Date hereof. Upon written application, the Board of Directors shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988.

C. Subdivision and Combination of Lots

No Lot may be subdivided into a smaller Lot or combined with another Lot, and no Lot boundaries may be altered, except with the prior written approval of the Board, on such conditions as are established by the Board, and in conformity with all applicable laws, ordinances and zoning regulations.

D. Use of Common Property

There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on or removed from any part of the Common Property without the express written consent of the Board of Directors. The Association may remove and either discard or store any unauthorized personal property left or kept on the Common Property, and the Association shall have no obligation to return, replace or reimburse the property owner for such property. The Association is not liable to any Person for any loss of, theft of, or damage to any personal property. Each Owner or Occupant who uses any Common Property, on behalf of himself or herself and his or her guests, invitees and family members, assumes all risks associated with such use of the Common Property and all liability for any damage or injury to any person or property as a result of such use. The Association shall not be liable for any damage or injury resulting from such use except as is caused directly and solely by gross negligence of the Association.

E. Prohibition of Damage and Illegal Conduct

Without prior written Board consent, nothing shall be done or kept in the Community which would increase the Common Expenses, damage the Common Property, or be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body. Noxious, destructive, offensive, hazardous, or unsanitary activity shall not be carried on in the Community, as such activity or conduct may be defined in the Association's rules and regulations. Loitering on Common Property, as defined under applicable laws, is not permitted.

Notwithstanding the above, the Association shall have no obligation to enforce the provisions of this Paragraph 9(E), or any other provision of the Declaration or Association regulations, to address nuisances or disturbances affecting or between Lot Owners or Occupants, such action being within the sole discretion of the Board of Directors. Rather, the intention of this provision is to grant aggrieved Owners and Occupants a private right of redress for actions, activities or conduct of other Owners or Occupants which unreasonably disturb or impair the peaceful enjoyment of the Owners' or Occupants' Lots. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or Occupant against the Association, its Officers, Directors, property managers or agents, for any failure to enforce or election to not enforce the provisions of this Paragraph or any other provision of the Declaration or Association regulations prohibiting nuisances or disturbing conduct by individuals and/or pets at the Community.

F. Pets

No Owner or Occupant, individually or collectively, may keep any animals on a Lot other than a reasonable number of generally recognized household pets, as determined in the sole discretion of the Board of Directors. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose in the Community. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while located outside of any dwelling in the Community, except within fenced areas. Feces left by pets on the Common Property must be removed promptly by the owner of the pet or the person responsible for the pet.

No potbellied pigs are permitted in the Community. The Board may adopt additional regulations regarding pets in the Community, including but not limited to prohibiting certain breeds of dogs or pets in the Community and/or limiting the number of pets permitted to be kept on a Lot. No animals that the Board determines to be dangerous or of a breed determined by the Board to have proclivity to be aggressive or dangerous may be brought

onto or kept in the Community. No dog may be left unattended outside of the dwelling on a Lot overnight, for more than 12 consecutive hours, or for more than 12 hours total in any day. If the Board determines that an Owner's or Occupant's pet endangers any person or other pet in the Community, or otherwise violates this Paragraph, the Board, in its discretion, may require that the pet be permanently removed from the Community upon seven days' written notice to such Owner or Occupant. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or Occupant to do so. Notwithstanding the above, the Board may remove any pet without prior notice to the pet's owner if, in the Board's sole discretion, the pet presents an immediate danger to health or safety of any person in the Community.

The Board of Directors is not responsible for resolving pet nuisance issues at the Community. Owners or Occupants who believe that a particular pet creates a nuisance or violates any applicable governmental regulations must resolve that issue with the pet's owner and/or the appropriate governmental authorities.

Any Owner or Occupant who keeps or maintains any pet in the Community agrees to indemnify and hereby holds harmless the Association, its Directors, Officers, property managers and agents, from any loss, damage, claim or liability of any kind or character whatsoever related to such pet.

G. Parking

No Owner or Occupant may keep or bring onto the Community more than a reasonable number of vehicles per Lot, as determined in the sole discretion of the Board. Vehicles only may be parked fully within garages or driveways on Lots, designated parking spaces, or other areas authorized in writing by the Board. Vehicles may not be parked on any grass or landscaped areas. Street parking should be limited to a short-term, temporary basis, not to exceed 72 hours in any week, and with prior notice to the Board if parked more than 24 consecutive hours.

The Board may adopt further rules regulating vehicles and parking at the Community, including but not limited to regulations limiting the size and type of permitted vehicles.

Disabled vehicles (being vehicles that do not have a current license tag when required or are obviously inoperable), stored vehicles (being vehicles that remain unmoved and outside of a garage in the Community for 10 consecutive days or longer without prior written Board permission), boats, jet-skis, trailers, buses, taxis, hearses, limousines, recreational vehicles, motor homes, campers, panel trucks, trucks with a cargo-load capacity of one ton or more, full-size vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), vehicles containing visible evidence of commercial use with commercial writings on their exteriors (except for law enforcement vehicles marked as such) are also prohibited from being parked at or in the Community, except: (i) in garages; (ii) with written Board approval; or (iii), in the case of service vehicles, on a temporary basis during daytime business hours or during emergencies for the purpose of serving a Lot. The Board may establish additional rules regarding vehicles and parking in the Community. The intent of this provision is not to prohibit the vehicles identified above, but to require that such vehicles be parked in garages.

If any vehicle is parked on a Lot, the Common Property or any property on which the Board possesses enforcement authority, in violation of this Paragraph or the Association's rules, the Board or agent of the Association may tow the vehicle from the Community or such property after 24 hours written notice. Such notice shall: (1) be placed on the vehicle; (2) specify the nature of the violation; (3) warn of possible towing; and (4) state the name and telephone number of a person to contact regarding the violation. If 24 hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six months of such notice, the Board or agent of the Association may have the vehicle towed from the Community in accordance with the original notice and without further notice. Notwithstanding the 24-hour notice provision above, if a vehicle at the Community or at such property is obstructing the flow of traffic, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed therefrom immediately.

The Association has no liability for any towing in accordance with this subparagraph. Each Owner and Occupant hereby releases and holds harmless the Association, its Directors, Officers, agents, managing agents, and representatives, for any claim or damage from any such towing. The Association's right to tow is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines.

H. Signs

Except as may be provided for herein or as may be required by legal proceedings or any governmental construction permitting process, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed, or permitted to remain in the Community without the prior written consent of the Board of Directors, other than no more than two of the following: (1) one professional security sign in or adjacent to the entry doors of the dwelling, not to exceed one square foot each in size; (2) one professionally lettered "For Sale"

sign not to exceed four square feet in size displayed in the front yard of the Lot being offered for sale; and/or (3) one professionally lettered political candidate endorsement placard not to exceed four square feet in size displayed in the front yard of the a Lot from 30 days before an election affecting all Wyndcliff Lots to five days after such election. The Board may establish rules permitting temporary signs on Lots announcing open houses, births, birthdays or other events for limited periods of time. The Board shall have the right to erect signs on the Common Property and establish additional rules regarding signs at the Community.

I. Rubbish and Trash

Owners and Occupants shall regularly remove all rubbish and trash from the Lot. No rubbish or trash shall be placed on the Common Property, except as provided herein. The Board may establish additional rules regarding placement of trash cans for pick-up and/or storage, including requiring trash removal in the Community from a single vendor and establishing schedules for trash can placement and trash pickup. Unless otherwise provided by the Board, trash must be secured in appropriate trash containers and/or appropriate sealed trash bags, and trash bags and trash cans must be stored in garages or other locations approved by the Board and placed or kept in the front of the dwelling on the Lot only on the evening before and day of scheduled trash pickup and consistent with all applicable governmental ordinances and regulations.

J. Unsightly or Unkempt Conditions

Owners and Occupants are prohibited from engaging in activities which cause disorderly, unsightly or unkempt conditions on the Common Property or outside of a dwelling in the Community, such as the assembly and disassembly of motor vehicles and other mechanical devices. All garbage cans, woodpiles and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. Clothing, bedding, rugs, mops, appliances, indoor furniture, newspaper piles, water bottles or jugs, and other household items shall not be placed or stored outside the dwelling. The Board may establish regulations defining and governing items which may be kept or stored outdoors on a Lot.

K. Drainage

Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. Each Owner and Occupant shall assist in ensuring that any drainage grating and/or headwalls are kept clear of obstruction and debris and shall notify the Association promptly if any obstruction is observed. No Owner or Occupant may obstruct, redirect or rechannel the drainage flows across the Community.

L. Erosion Control; Contamination

No Owner or Occupant shall engage in any activity which creates erosion or siltation problems or causes contamination of or damage to any stream, water course, the Common Property or any Lot in the Community. Each Owner and Occupant shall be liable for all damages and restoration costs resulting from such unauthorized activity.

M. Impairment of Easements

No Owner or Occupant shall impair any easement existing in the Community, or do any act or allow any condition to exist which will adversely affect the other Lots or their Owners or Occupants.

N. Yard Sales

No yard sale, garage sale or similar activity shall be conducted in the Community more frequently than twice per calendar year per Lot, and subject to all reasonable conditions that the Board may establish.

O. Window Treatments

To maintain an attractive community, the Board may establish rules regarding window treatments, such as requirements for the type and exterior color of window treatments. Unless otherwise approved in writing by the Board, only customary window treatments are permitted.

P. Antennas and Satellite Dishes

Except as provided below or otherwise approved by the Board of Directors, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors in any portion of the Community. Direct broadcast satellite ("DBS") antennas and multi-channel multi-point distribution services ("MMDS") one meter or less in diameter and television broadcast service antennas may be installed in accordance with rules and regulations of the Federal Communication Commission ("FCC") and the Association. Any such devices shall be installed in the least conspicuous location available on the Lot that permits reception of an acceptable quality signal, and all wires,

fitting, hardware and cables for such devices shall be concealed from view to the greatest extent reasonably possible, and shall be installed outside of the dwelling to the least extent reasonably possible, in which an acceptable quality signal can be received.

Q. American Flag and Related Banners

Notwithstanding Paragraph 8 hereof, Owners and Occupants can install or erect one of the following properly maintained flags or banners, not greater than three feet by five feet in size, on a customary mast not longer than four feet in length, on the exterior of the dwelling adjacent to an exterior door: (1) an American Flag; or (2) a customary and appropriate seasonal flag or school flag or banner. The Board may require removal of any flag or banner reasonably considered by the Board to be inappropriate, offensive, in poor taste, or intended to incite conflict.

R. Transient Occupants

No transient tenants or Occupants are permitted to occupy a Lot or portion of a Lot. No Lot or portion of a Lot may be leased, rented or occupied either in the nature of a hotel or motel, through services such as Airbnb, VRBO or otherwise, or for short-term or transient occupancy.

10. LEASING AND OCCUPANCY

In order to preserve the character of the Community as a residential community of owner-occupied homes, leasing of Lots shall be governed by the restrictions imposed by this Paragraph. **Except as provided herein, leasing of Lots is prohibited.**

Owners may lease their Lots only if: (1) the Owner is a Grandfathered Owner; (2) the Owner is not a Grandfathered Owner but has received a Leasing Permit from the Board as provided below; or (3) the Owner is not a Grandfathered Owner but has received a Hardship Leasing Permit from the Board as provided below. The intent of this provision is to limit leasing to 10 Lots, except as provided below in limited cases for certain undue hardship situations.

A. Definitions

(i) **“Authorized Family Member”** means a Lot Owner’s spouse, former spouse, parent, child, brother, sister, grandparent or grandchild, or any such persons who have such relationship by marriage to a Lot Owner, which relationship may be direct or by step-family relationship. Such relationship must be demonstrated to the Board on request by providing a copy of a birth certificate, marriage license or similar document satisfactory to the Board.

(ii) **“Effective Date”** means the date that this Amendment is recorded in the Cobb County, Georgia land records.

(iii) **“Grandfathered Owner”** means an Owner who: (1) is lawfully leasing his or her Lot on the Effective Date and has been lawfully leasing his or her Lot for at least 90 days prior to the Effective Date; and (2) within 30 days of the Effective Date, provides the Board with a copy of the Owner’s lease agreement(s) which has/have been in effect for such period.

(iv) **“Grandfathered Lot”** means the Lot owned and leased by a Grandfathered Owner on the Effective Date hereof, as defined above.

(v) **“Leasing”** means the occupancy of a Lot by any Person(s) other than:

(a) the Lot Owner or an Authorized Family Member of the Lot Owner;

(b) an Authorized Corporate Occupant; or

(c) a roommate of any person identified in subparagraphs (a) or (b) above, which person identified above also occupies the Lot as his or her principal, primary and full-time residence.

A Lot may be considered to be leased hereunder even if no rent is paid to the Owner. For the purpose of this provision, any lease purchase arrangement, lease with an option to purchase, agreement for deed, or bond for title shall be considered a lease hereunder.

(vi) **“Leasing Cap”** means the maximum total number of outstanding Leasing Permits, plus Grandfathered Lots and Hardship Leasing Permits, that are permitted before additional Leasing Permits may be issued hereunder. **The Leasing Cap is 10 Lots.**

B. Grandfathered Lot Leasing

Grandfathered Owners may lease their Grandfathered Lots, in accordance with this Paragraph 10, without having to obtain a Leasing Permit.

Grandfathering and Grandfathered status hereunder shall automatically expire on the date the Grandfathered Owner conveys title to the Grandfathered Lot to any other person (other than the Owner's spouse, former spouse, parent, child, brother, sister, grandparent or grandchild). The Board of Directors, in its discretion, with written notice to the Lot Owner, also may terminate grandfathering and Grandfathered status of any Lot hereunder, after 30 days' written notice to the Owner, if:

(i) the Grandfathered Owner becomes delinquent in the payment of any assessments or other charges owed to the Association hereunder;

(ii) the Grandfathered Owner or any Occupant of the Lot is convicted of any felony (which conviction has not been overturned), is convicted of a misdemeanor criminal offense occurring within the Community, is issued two or more governmental citations or tickets for traffic offenses within the Community, or is arrested for and/or charged by law enforcement for criminal conduct which the Board reasonably determines creates an unreasonable danger or risk to safety to other Community residents; or

(iii) the Grandfathered Owner or any Occupant of the Lot violates the Declaration, Bylaws, Association rules or regulations, and fails to fully cure that violation within the 30-day notice period.

C. Leasing Permits

If an Owner is not a Grandfathered Owner and wishes to lease the Owner's Lot, then the Owner may apply in writing to the Board of Directors for a Leasing Permit. Owner requests for Leasing Permits must be in writing and provide such information as the Board may reasonably require.

The Board of Directors may approve an Owner's request for a Leasing Permit if: (i) the Owner has occupied the Lot as his or her principal and primary residence for at least 24 consecutive months at any point of time prior to requesting a Leasing Permit; and (ii) the total number of current, outstanding Leasing Permits, plus Grandfathered Lots and Hardship Leasing Permits is less than the Leasing Cap.

Notwithstanding the above or anything to the contrary herein, the Board may deny a Leasing Permit to any Owner if the Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge or if the Owner or any Lot Occupant is otherwise in violation of the Declaration, Bylaws, any Association rules and regulations, or any applicable law or ordinance.

If the number of current Leasing Permits and Hardship Leasing Permits issued, plus Grandfathered Lots, has reached or exceeds the Leasing Cap, then no additional Leasing Permits (except for Hardship Leasing Permits) shall be issued until that number falls below the applicable Leasing Cap.

Any Owner who has been denied a Leasing Permit because the Leasing Cap is satisfied shall be placed on a waiting list to be issued such a permit, if the Owner so desires. The issuance of a Hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit. All Leasing Permits are valid only as to a specific Owner and Lot and are not transferable between either Lots or Owners (including a subsequent Owner of a Lot where a permit was issued to the Owner's predecessor in title).

D. Hardship Leasing Permits

If an Owner is not a Grandfathered Owner, is denied a Leasing Permit, and believes that leasing the Owner's Lot is necessary to eliminate or avoid a substantial undue hardship to the Owner, then the Owner may apply in writing to the Board of Directors for a Hardship Leasing Permit.

A written Hardship Leasing Permit will allow an Owner to temporarily lease his or her Lot, provided that such leasing is in strict accordance with the terms of the permit and this Paragraph. The Board of Directors shall have the authority to establish conditions as to the issuance and use of such permits consistent with this Paragraph. All Hardship Leasing Permits are valid only as to a specific Owner and Lot and are not transferable between either Lots or Owners (including a subsequent Owner of a Lot where a permit was issued to the Owner's predecessor in title).

To be considered for a Hardship Leasing Permit, the Owner must apply in writing to the Board of Directors and provide information and documentation sufficient to the Board of Directors to review and

determine whether a Hardship Leasing Permit is necessary or appropriate. The Board shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship; (2) the harm, if any, which will result to the Community if the permit is approved; (3) the number of Hardship Leasing Permits which have been issued to other Owners; (4) the Owner's ability to cure the hardship; and (5) whether previous Hardship Leasing Permits have been issued to the Owner. The Board will use good faith in the review and issuance of Hardship Leasing Permits, and in particular will use best efforts to accommodate family illnesses or incapacity, and military service.

The Board has sole discretion whether to grant a Hardship Leasing Permit, and the existence of a hardship does not guaranty that an Owner is entitled to or will receive a Hardship Leasing Permit; such permit is discretionary. The Board shall have broad discretion in determining what constitutes an undue hardship.

Unless otherwise approved by the Board, Hardship Leasing Permits expire one year after the date issued. Owners may apply for additional Hardship Leasing Permits at the expiration of a Hardship Leasing Permit, if the circumstances warrant.

E. Expiration and Revocation of Leasing Permits and Hardship Leasing Permits

Leasing Permits and Hardship Leasing Permits are automatically revoked upon the sale or transfer of the Lot to a third party (excluding sales or transfers to an Owner's spouse, former spouse, parent, grandparent, child, grandchild, brother or sister), except that any lease compliant with the Declaration and existing on the date of such conveyance shall be permitted to continue for the remainder of its original term, not to exceed the remaining term of the original Permit under which such lease was executed. Hardship Leasing Permits also are automatically revoked upon the failure of an Owner to execute and commence an authorized lease of the Lot within 90 days of the issuance of the Hardship Leasing Permit.

Leasing Permits also automatically expire: (i) three years from the date issued; or (ii) if the Lot is not subject to an authorized and approved lease for more than 90 consecutive days.

The Board of Directors, in its discretion, also may terminate any Leasing Permit or Hardship Leasing Permit hereunder, after 30 days' written notice to the Owner, if:

(i) the Owner becomes delinquent in the payment of any assessments or other charges owed to the Association hereunder;

(ii) the Owner or any Occupant of the Lot is convicted of any felony (which conviction has not been overturned), is convicted of a misdemeanor criminal offense occurring within the Wyndcliff Community, is issued two or more governmental citations or tickets for traffic offenses within the Wyndcliff Community, or is arrested for and/or charged by law enforcement for criminal conduct which the Board reasonably determines creates an unreasonable danger or risk to safety to other Wyndcliff residents; or

(iii) the Owner or any Occupant of the Lot violates the Declaration, Bylaws, Association rules or regulations, and fails to fully cure that violation within the 30-day notice period.

If a Leasing Permit expires or is revoked, the Owner may request another Leasing Permit or, if such Leasing Permit is not available because the Leasing Cap is satisfied, the Owner may request to be placed on the leasing waiting list.

F. Leasing Administration; Leasing Administration Fee and Early Lease Termination Fee

The Board of Directors, in its discretion, may engage a third party vendor to manage, administer and/or enforce all or any of the provisions this Paragraph 10, including but not limited to monitoring for unauthorized leasing in the Community, managing the collection of leases and related information from Owners and/or Occupants, and enforcement of leasing procedures and regulations hereunder. The Association may specifically assess costs related to such third party vendor against respective Owners leasing their Lots hereunder.

In addition to annual assessments, special assessments, and other charges provided for under this Declaration or the Bylaws, an Owner who leases a Lot shall be assessed and required to pay to the Association an annual Leasing Administration Fee established by the Board, not to exceed one half (1/2) of the annual assessment applicable to such Lot. If the Board engages a third party vendor to perform functions described above in this Paragraph 10(F), any specific assessment against an Owner related to such vendor's fee shall be included in and paid from the Leasing Administration Fee; such Owner shall not be responsible for paying both the Leasing Administration Fee and an additional specific assessment of the vendor's fee.

In addition to the above, if any Owner terminates or cancels, or permits the termination or cancellation of, any lease prior to the expiration of its original term, the Owner shall be assessed and required to pay the Association an Early Lease Termination Fee, unless the lease cancellation or termination is: (i) pursuant to judicial eviction of the Occupant; (ii) on request or demand of the Association hereunder; or (iii) is made to accommodate a military reassignment of the Occupant outside the metropolitan Atlanta area after the initial lease execution. The Early Lease Termination Fee shall equal one half (1/2) of the annual assessment applicable to such Lot. The Leasing Administration Fee and Early Lease Termination Fee shall be non-prorated and non-refundable, and shall be due within 30 days of the date any lease is executed or new occupancy relationship is created hereunder (in the case of the Leasing Administration Fee) or 30 days of the early lease termination or cancellation (in the case of the Early Lease Termination Fee).

G. Prohibition on Certain Occupants

No person is permitted to occupy a Lot pursuant to a lease hereunder if such person: (1) is registered or required to be registered on or under the Georgia Sexual Offender Registry, pursuant to O.C.G.A. Section 42-1-12; (2) has been convicted of any felony or any crime of physical violence against any person or animal in any jurisdiction of the United States, which conviction has not been overturned; or (3) is listed on any law enforcement most wanted list.

H. Leasing Provisions

When leasing is permitted under this Paragraph, it shall be governed by the following provisions:

(i) General Leasing Provisions

The Association may engage or delegate to a third party all or any of the rights, responsibilities or tasks assigned to the Association hereunder, acting at the direction of the Board of Directors. Except for authorized roommates of an Owner as provided above, Lots may be leased only in their entirety pursuant to a single lease. All leases must be for an initial term of not less than one year and, except with written Board approval, not more than the remaining term of the Leasing Permit or Hardship Leasing Permit. There shall be no subleasing of Lots or assignment of leases, except with prior written Board approval. Lots may not be leased, rented or used for short-term hotel-type use, stay or occupancy, including but not limited to Airbnb or VRBO.

All leases shall be in writing and shall contain provisions complying with the requirements of this Paragraph 10, the Declaration and all Association rules and regulations. All leases executed, modified, renewed or extended after the Effective Date also must include a completed Lease Terms Exhibit attached as Exhibit "B" hereto and incorporated herein by reference.

The provisions of the Association Legal Documents and the Lease Terms Exhibit are incorporated into each lease of any Lot executed, modified, renewed or extended after the Effective Date, whether or not expressly stated therein, and into the terms of any tenancy or occupancy of a Lot even if no written lease or agreement exists between the Owner and the Occupant.

(a) Notice Prior to Leasing. At least seven days before entering into a lease of any Lot, the Owner shall provide the Board of Directors with: (1) written notice of the Owner's intention to lease his or her Lot; (2) verification that the Owner has obtained a Leasing Permit or Hardship Leasing Permit or is authorized to lease as a Grandfathered Owner; (3) a copy of the proposed lease, which must include the Lease Terms Exhibit provided for herein; (4) the names, phone numbers and email addresses of all of the proposed Occupants of the Lot; (5) the Owner's Lot address, and the Owner's phone number, email address, work location, work phone number and physical street address to be occupied by the Owner when the Lot is leased; (6) confirmation of the Tenant Screening required hereunder; and (7) such other information required by the Board. The Owner must provide the lessee copies of the Declaration, Bylaws and Association rules and regulations. **Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed tenant.**

(b) Notice After Lease Execution. The Owner of a leased Lot shall provide the Board with a copy of the executed lease and Lease Terms Exhibit within 10 days after executing a lease for the Lot and within 10 days of request by the Board during the lease term. If any of the information regarding the occupant required above, or other information regarding occupancy of the Lot, changes during the term of any leasing of the Lot, the Owner and Occupant shall update and notify the Board in writing of such changes within 30 days of the date of such change.

(c) **Sanctions for Failure to Provide Notice.** If an Owner fails to provide the Association a copy of the lease and notice of leasing as provided herein, or an Owner otherwise leases a Lot in violation of this Paragraph, the Association may fine the Owner an initial fine of up to \$250.00, plus additional daily fines for continued violation of these provisions, in addition to revoking Grandfathered status or Leasing Permits hereunder, and all other remedies provided in the Declaration, Bylaws or Georgia law.

(ii) **Tenant Screening**

Any Owner who is seeking to lease his or her Lot must engage a professional third-party service or services ("Tenant Screening Service" or "Service") prior to entering into a lease agreement, to obtain the information required below for each adult Occupant who will occupy the Lot pursuant to the lease. Prior to such occupancy, the Owner must complete and provide the Association confirmation that the Owner conducted the Tenant Screening. The Tenant Screening Service must, at a minimum, take the following steps:

- (a) Provide a consumer credit report on the prospective Occupant(s);
- (b) Provide a nationwide criminal background check on the prospective Occupant(s);
- (c) Provide a review of the Georgia Sexual Offender Registry; and
- (d) Report such information as is disclosed by its investigation to the Owner.

If the Georgia Sexual Offender Registry review is not a part of the screening report, the Owner will separately verify this information and include it with the screening report to Board. **The Owner should not provide the Board with the results of the Tenant Screening**, but instead the Owner must just confirm completion of the Tenant Screening by providing the Board with a receipt or other documentation evidencing the Tenant Screening required hereunder. The receipt or documentation confirming the Tenant Screening must identify the name, address and telephone number of the Tenant Screening Service and the name(s) of the prospective tenant(s).

The Board will not receive or evaluate personal information of prospective tenants or make any determination or recommendation as to the suitability of any prospective tenant. The selection of a suitable and appropriate tenant shall be the sole responsibility of the Lot Owner.

(iii) **Compliance and Enforcement**

The Owner must provide the Occupant copies of the Association Legal Documents. Each Owner and Occupant shall comply with the Declaration, Bylaws, Association rules and regulations, and all applicable laws and ordinances. Owners and Occupants also shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure such compliance and shall indemnify and hold the Association harmless for their and their Occupants' and guests' failure to comply. The Owner shall be responsible for all violations by such Occupants and guests as if the Owner committed such violation, notwithstanding the fact that such Occupants and guests also are fully liable and may be sanctioned for any such violation.

Any of the following shall constitute a default under the lease and authorizes the Association to declare the lease in default and to terminate the lease for any such violation and/or to compel the Owner to evict the Lot Occupant(s), in addition to all other rights and remedies afforded under the Declaration, Bylaws and/or Georgia law:

- (a) any violation of any provision of the Declaration, Bylaws or Association which remains uncured after 30 days' written notice thereof from the Association;
- (b) any felony conviction against an Occupant, which conviction has not been overturned;
- (c) any conviction of an Occupant for a misdemeanor criminal offense occurring within the Wyndcliff Community;
- (d) two or more governmental citations or tickets for traffic offenses occurring within the Wyndcliff Community;
- (e) any arrest of or charge by law enforcement against an Occupant for criminal conduct which the Association's Board of Directors reasonably determines creates an unreasonable danger or risk to safety to other Wyndcliff residents;
- (f) any Amber alert issued on a vehicle registered or parked at the Community by an Occupant or guest of such Occupant; or

(g) any conduct by an Occupant or guest of an Occupant that creates a reasonable risk to life and/or safety at the Wyndcliff Community.

The Association may bring an action against the Owner and/or Occupant(s) for damages and/or injunctive relief, or may impose fines and/or other sanctions under the Declaration, Bylaws or Georgia law, and/or may terminate Grandfathered status, Leasing Permits, Hardship Leasing Permits and/or leases, for any such violations.

Failure by the Association to enforce any of its rights shall not be deemed a waiver of the right to do so thereafter. Any costs associated with any enforcement action by the Association under this Paragraph, including all reasonable attorneys' fees and/or collection fees or costs actually or contingently incurred, and court costs, shall be specially assessed against Owner's Lot and shall be a personal obligation of the Owner, being deemed as an expense which benefits the leased Lot and Owner. If any Occupant, or any guest, invitee, licensee or family member of the Occupant violates the Declaration, Bylaws or rules and regulations, for which a fine is imposed, such fine may be assessed against the Occupant and/or Owner, as provided in the Declaration and Bylaws.

When a Lot Owner who is leasing his or her Lot fails to pay any annual or special assessment or any other charge for a period of more than 30 days after it is due and payable, then, upon request by the Board, the lessee shall pay the Association all unpaid annual and special assessments and other charges owed and payable by the Owner during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall be jointly and severally with the Owner personally liable for, and shall pay to the Association, all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

11. SALE OF LOTS

An Owner intending to transfer or sell a Lot or any interest in a Lot shall give the Board of Directors written notice of such intention within seven days after executing the transfer or sales documents. As part of the notice, the current Owner shall furnish the Board the name and address of the intended grantee and such other information required by the Board. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven days after receiving title to a Lot, the purchaser or grantee of the Lot shall give the Board written notice of his or her ownership of the Lot. As part of the notice, the new Owner shall furnish the Owner's name, mailing address, phone number, work location, work phone number and email address, Lot Occupant names, and such other information required by the Board.

12. INSURANCE

A. Hazard Insurance on Common Property

The Association's Board or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Property.

B. Association Liability Insurance

The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, in their capacities as such, with a combined single limit of at least \$1,000,000.00.

C. Directors' and Officers' Liability Insurance

The Board shall obtain a Directors' and Officers' liability insurance policy with a limit of at least \$1,000,000.00.

D. Fidelity Insurance

The Board shall obtain a fidelity bond or dishonesty insurance on Directors, Officers, employees, property managers, and other persons handling or responsible for the Association's funds, regardless of whether they are

compensated by the Association. If reasonably available, the fidelity bond or dishonesty insurance shall cover at least one-quarter of the annual assessments from all members plus the reserve funds in the custody of the Association at any time during the term of the bond or policy. The bond or policy must provide that it may not be canceled, substantially modified or subject to non-renewal without at least 30-days prior written notice to the Association.

E. Additional Association Insurance

The Board may obtain such additional insurance as it deems appropriate.

F. Premiums and Deductibles on Association Policies

Premiums for all Association insurance shall be a Common Expense. The policies may contain reasonable deductibles. Deductibles shall not be subtracted from the face amount of the policies in determining whether the insurance equals the full replacement cost of the insurable improvements.

G. General Insurance Provisions

In addition to any other terms the Board deems appropriate, all Association insurance shall be governed by the following provisions:

- (i) All policies shall be written with a company licensed to do business in Georgia;
- (ii) All policies on the Common Property shall be in the name of the Association for the benefit of itself and its members;
- (iii) The Board shall have exclusive authority to adjust losses under all Association insurance policies;
- (iv) The insurance carried by the Association shall be primary with respect to the portions of the Community insured thereby and shall not be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees;
- (v) All hazard insurance policies that have an agreed value endorsement also shall have an inflation guard endorsement if reasonably available; and
- (vi) A qualified person who is in the real estate industry and familiar with construction shall review the Association's hazard insurance policy at least every three years to evaluate the sufficiency of such coverage.

H. Individual Lot Owner Insurance

No Association's insurance is required to cover public liability for individual Owners for liability within the Lot, improvements or betterments made to Lots by Owners, any personal property of Owners, or any portion of the Lots or dwellings on the Lots, and such items shall not be covered by the Association. Each Owner must carry such insurance on all portions of the Lot and structures thereon. Lot Owners shall obtain blanket insurance for all improvements on their respective Lots. This insurance shall include, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction of all insurable improvements on the Lot.

In no event shall any insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees. Each Owner shall file a copy of his or her individual insurance policy or policies with the Board within 10 days of request by the Board. Such Owner shall also promptly notify the Board in writing in the event such policy is canceled.

13. REPAIR AND RECONSTRUCTION AFTER CASUALTY DAMAGE

A. Association Repair and Reconstruction of Common Property

In the event of damage to or destruction of all or any part of structures on the Common Property insured by the Association as a result of fire or other casualty, unless 80% percent of the Lot Owners vote not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure(s) or portions thereof insured by the Association, subject to the provisions hereof and with such improvements or modifications as may be approved by the Board. In the event of substantial damage or destruction, each institutional holder of a first Mortgage requesting such shall be entitled to written notice of the damage, and nothing in these documents shall be construed to afford a priority to any Lot Owner with respect to any distribution of proceeds.

(i) Estimates; Plans and Specifications

Promptly after a fire or other casualty causing damage to portions of the Community insured by the Association, unless a decision is made not to rebuild or restore such property as provided above, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the affected Common Property structures to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes or otherwise approved by the Board. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary. The Board may vary from this procedure when, in its reasonable discretion, the Board determines it to be appropriate.

(ii) Construction Fund

Any insurance proceeds collected on a claim against any Association hazard policy and any special assessments collected pursuant to subparagraph (2) below shall constitute a construction fund to be used by the Board for repair or restoration pursuant to this Paragraph. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Lot Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Paragraph, to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), Owners and/or personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board.

(iii) Proceeds

If the proceeds of insurance are not sufficient to defray the Board's estimated or actual costs of repair or reconstruction hereunder, including, but not limited to, any professional fees and premiums for construction bonds the Board deems necessary, the Board may levy a special assessment against all Owners without the necessity of a membership vote or compliance with any other requirements for approval of special assessments in this Declaration. Any surplus funds remaining after the repair or reconstruction is completed shall be common funds of the Association to be used as determined by the Board.

(iv) Owner Repair and Reconstruction of Lot Improvements

Unless otherwise approved by the Board (which approval will not be unreasonably denied in hardship circumstances), in the event of damage to or destruction of any structure on a Lot, the Owner shall, within 90 days of the date of such damage or destruction, either: (1) repair or reconstruct all portions of such structure, and all related damages on the Lot, in accordance with plans and specifications approved by the Board; or (3) fully clear all damaged structures from the Lot and sod the Lot, in accordance with plans and specifications approved by the Board.

(v) Encroachments

Encroachments upon or in favor of Lots which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Lot Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Community was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

14. EMINENT DOMAIN

Whenever any Common Property is taken by, or conveyed in lieu of condemnation to, any authority having condemnation or eminent domain power, the Board of Directors shall give notice thereof to each Owner. If any structure on the Common Property is so taken or conveyed, the Board shall arrange for and supervise the prompt reconstruction of such structure, with improvements or modifications as may be approved by the Board, to the extent sufficient Common Property is available, with such improvements or modifications it deems appropriate, unless 75% of the Owners vote not to do so. The Association shall have an easement across each Lot on which any entry feature is located to reconstruct entry features on such Lot in accordance with this Paragraph.

If proceeds from the condemning authority are not sufficient to defray the Board's estimated or actual costs of reconstruction, including, but not limited to, any professional fees and premiums for construction bonds the Board deems necessary, the Board may levy a special assessment against all Owners without the necessity of a membership vote or compliance with any other requirements for approval of special assessments in this Declaration. Any surplus funds remaining after the reconstruction is completed shall be common funds of the Association to be used as determined by the Board.

15. EASEMENTS

A. Easements for Use and Enjoyment

Every Owner shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his or her Lot, subject to the Association's right to:

(i) charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner or Occupant, his or her family, tenants, guests, and invitees;

(ii) suspend the voting rights of an Owner and the right of an Owner and/or Occupant to use the Association's facilities, amenities or Common Property at the Community for any period during which any assessment against his or her Lot which is provided for herein remains unpaid and for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations;

(iii) borrow money as may be set forth in the Bylaws; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Community. Any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Community;

(iv) grant permits, licenses or easements across the Common Property; and

(v) dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association.

Any Lot Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to the members of his or her family, his or her tenants and guests, and shall be deemed to have made a delegation of all such rights to the Occupants of his or her Lot, if leased.

The Owners' rights and easements granted in this Paragraph are subject to: (1) all other rights of the Association and other Owners set forth in this Declaration, the Bylaws or the Articles of Incorporation; and (2) all encumbrances and other matters of public record affecting title to the Common Property.

B. Easements for Utilities

There is hereby reserved to the Association, or its designee, blanket easements upon, across, above and under all property within the Community for access, ingress, egress, repair, replacement, and maintenance of: (a) gas, water, sanitary sewer, electricity services, telecommunication services, and all other utilities and/or similar services serving the Common Property or the Community; and (b) any water runoff and storm drainage systems. Such easement rights shall not create any maintenance or repair obligations on the Association that do not otherwise exist under this Declaration.

C. Easement for Entry

There is hereby reserved to the Association and its designee, an easement and right, but not the obligation, to enter onto any Lot for emergency, life-safety, security and safety. The right may be exercised by the Association's Board of Directors, Officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Board. No one exercising the easement and rights granted in this Paragraph shall be liable for trespass, damages, or in any other manner by virtue of exercising such rights. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Lot shall exist.

D. Easement for Association Maintenance

There is hereby reserved to the Association and its designee an easement and right across all portions of the Community, to allow the Association to fulfill the maintenance obligations and enforcement powers described in this Declaration. This easement shall be exercised with a minimum of interference to the quiet enjoyment of the Owner's property, reasonable steps shall be taken to protect the Owner's property, and any Person causing unauthorized damage to the Owner's property shall repair the damage at its sole expense.

E. Easement for Entry Features

There is hereby reserved to the Association and its designee an easement and right across all portions of the Community for ingress, egress, installation, construction, landscaping, maintenance, repair, replacement and improvement of entry features, vehicular and directional signage, and similar streetscapes for the Community, including but not limited to over and upon any portion of a Lot containing such entry features, vehicular and directional signage, or streetscapes, as may be more fully described on the Plats. This easement shall include the right to maintain, install, cut, remove and/or plant trees, shrubbery, flowers, vegetation, landscaping, hardscaping and irrigation around such entry features and streetscapes, and the right to grade the land under and around the same.

F. Public in General

The easements and rights created in this Paragraph do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, nothing set forth herein shall in any way limit or restrict any easements or rights already granted to the public as such easements or rights are previously recorded in the Cobb County, Georgia land records. The Board of Directors hereby reserves the right to close temporarily, all or any portion of the Community that, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication of such property, or the accrual of any rights to such property, to the general public or to any Person other than the Persons for which such easements are expressly created in this Declaration.

G. Cross-Drainage Easements

Each Lot shall be burdened with a perpetual, non-exclusive easement over the Lot for the purpose of drainage of storm water runoff from any portion of the Community; however, no Person shall alter the natural drainage of storm water from any Lot once construction of initial improvements has been completed so as to unreasonably increase the drainage of storm water onto adjacent portions of the Community without the consent of the Owner of the affected property and the Board.

16. AMENDMENTS

A. Member Approval Procedure

Except where a higher vote is required for action under any other provisions of this Declaration, the Bylaws or by the Act, this Declaration may be amended with the approval of Owners holding 2/3 of the total eligible Association vote. 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, or such other Officers as approved by the Board, and recorded in the Cobb County, Georgia land records.

B. Default Approval Procedure After Owner Non-Response

It is recognized that, when Owners fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, important amendments to the Declaration or Bylaws may have no chance of approval, with the supermajority voting requirements established under the Act. It also is recognized that supermajority voting requirements are important for Owner actions which are as significant as amending this Declaration or the Bylaws. To balance these competing concerns, Paragraph 6(E)(2) of the Bylaws establishes a mechanism which provides every eligible Owner an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration or Bylaws, but also a realistic mechanism for approving important amendments, without the damaging consequences of Owner non-response.

C. Amendments to Comply with Law or Conform Documents

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration and the Bylaws to comply with, and/or to receive any benefits afforded by, any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie

Mac"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between this Declaration, the Bylaws, the Articles, and applicable laws.

D. Validity of Amendments

No Person shall be permitted to bring any legal action to challenge the validity of an amendment to this Declaration or the Bylaws more than one year after the recording thereof in the Cobb County, Georgia land records.

17. MORTGAGEE RIGHTS

A. Approval of Actions

Unless at least two-thirds of the first Mortgagees or Owners give their consent, the Association shall not:

- (i) by act or omission seek to abandon or terminate the Community or the Association;
- (ii) change the pro rata interest or obligations of any individual Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;
- (iii) partition or subdivide any Lot;
- (iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property except as authorized in this Declaration (the granting of utility easements or rights-of-way for public purposes and the granting other easements for the benefit of the Association shall not be deemed a transfer within the meaning of this clause); or
- (v) use hazard insurance proceeds for losses to any portion of the Community (whether to Lots or to Common Property) for other than the repair, replacement, or reconstruction of such portion of the Community, except as otherwise provided in this Declaration.

The provisions of this subparagraph shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Lot Owners where a larger percentage vote is otherwise required by the Association Legal Documents for any of the actions contained in this Paragraph.

B. Liability for Assessments

Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of a first priority Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title, except to the maximum extent permitted by law. Such unpaid share of Common Expenses or assessments, or the portion thereof that are not such Mortgagee's liability hereunder or under applicable law, shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all prorated charges for the remainder of the fiscal year in which title is passed.

C. Right to Information

Upon written request to the Association, identifying the name and address of the holder and the Lot address, any Eligible Mortgage Holder will be entitled to timely written notice of:

- (i) any condemnation loss or any casualty loss which affects a material portion of the Community or any Lot on which there is a first Mortgage held by such Eligible Mortgage Holder;
- (ii) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of 60 days, and any default in the performance by an individual Lot Owner of any other obligation under the Association Legal Documents which is not cured within 60 days;
- (iii) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (iv) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

D. Right to Financial Statements

Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the balance sheet and income statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

E. Leasing and Sales

Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 10 and 11 governing sales and leases shall not apply to eliminate the right of any first Mortgagee to: (i) foreclose or take title to a Lot pursuant to remedies contained in its Mortgage; (ii) take a deed or assignment in lieu of foreclosure; or (iii) sell or otherwise dispose of a Lot acquired by the Mortgagee.

F. Failure of Mortgagee to Respond

Any Mortgagee who receives a written request from the Board to respond to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

18. GENERAL PROVISIONS

A. Security

The Association may, but shall not be required to, provide measures or take actions which directly or indirectly improve security in the Community. Each Owner, for himself or herself and his or her Occupants, tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security. The Association has no duty to provide security in the Community. Furthermore, the Association does not guarantee that Owners, Occupants and other people will not commit criminal acts in the Community or that unauthorized people will not gain access to the Community. It shall be the responsibility of each Owner and Occupant to protect his or her person and property, and all responsibility to provide such security lies solely with each Owner and Occupant. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of measures undertaken.

B. Dispute Resolution

Before filing any lawsuit or administrative proceeding against the Association, the Board of Directors, any Officer or Director, or the Association's property manager, an Owner or Occupant request in writing and attend a meeting with the Board to discuss an amicable resolution of any dispute. The Owner or Occupant shall, in such request and at the meeting, make a good faith effort to explain the grievance and resolve the dispute. Upon receiving a request for a meeting, unless the Board waives such meeting requirement, the Board shall give notice of the date, time and place of the meeting to the person requesting the meeting. The Board shall schedule this meeting for a date not less than seven or more than 30 days from the date of receipt of the meeting request, except with the approval of the Owner or Occupant. After the meeting, the Board shall have a reasonable opportunity to address the Owner's or Occupant's grievance before a suit is filed.

C. Use of Driveways and Parking Areas

The Association shall not be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or any loss or damage to any property placed or kept in any driveway, parking space, parking area or service area at the Community. Each Owner or Occupant who places or keeps a vehicle in a driveway, parking space, parking area or service area at the Community does so at his or her own risk.

D. Use of Common Property

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner or Occupant of any Lot, or any other person, or resulting from any use or operation of the Common Property or any of its improvements, fixtures, facilities, landscaping, natural elements or environmental features, unless such injury or damage results directly and solely from the gross negligence of the Association. It shall be the affirmative duty and responsibility of each Owner, Occupant, tenant, guest, invitee or any other person using the Common Property to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof. All Owners, Occupants, tenants, guests, invitees or other persons using the Common Property, whether lawfully or unlawfully, do so at their own risk and peril.

E. No Discrimination

No action shall be taken by the Association or the Board of Directors which would unlawfully discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status, handicap or sexual orientation.

F. Implied Rights

In addition to express rights, the Association may exercise any right or privilege implied from the existence of any express right or privilege or reasonably necessary to effectuate any such right or privilege.

G. Electronic Records, Notices and Signatures

Notwithstanding any other portion of this Declaration, records, signatures and notices shall not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented electronically. The relevant provisions of the Bylaws shall govern the giving of all notices required by this Declaration.

H. Use of Words "Wyndcliff" or "Wyndcliff at Town Center" - Protection of Community

"Wyndcliff"sm and "Wyndcliff at Town Center"sm and the Wyndcliff logo are service marks of the Association. No Person shall use the term "Wyndcliff"sm, or any derivative thereof, or use any Association logo(s), or any photos, representation or images of Association Common Property, in any printed or promotional material, or any website or social media site or posting, without the prior written consent of the Association's Board of Directors. However, Owners may use the terms "Wyndcliff"sm or "Wyndcliff at Town Center"sm in printed or promotional matter where such term is used solely to specify that particular property is located within the Community. Any use of the name "Wyndcliff"sm or "Wyndcliff at Town Center"sm shall be in a manner in which proprietary rights to such name are protected. No Owner or Occupant may, in any social media or otherwise, use the Wyndcliff name, logo, or any Community image or representation, or otherwise identify the Wyndcliff Community in any manner that could create any life or safety risk or that adversely impacts the reputation, image or goodwill of the Community or the Association.

I. Duration

The covenants and restrictions of this Declaration shall run with and bind the real property in the Community perpetually to the extent provided in the Act.

J. Severability

Invalidation of any one of these covenants or restrictions, by judgment, court order, or otherwise, shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

19. PREPARER

This Declaration was prepared by Jay Lazega, Esq., Lazega & Johanson LLC, P.O. Box 250800, Atlanta, Georgia 30325.

IN WITNESS WHEREOF, the undersigned Officers of Wyndcliff at Town Center Homeowners Association, Inc., hereby certify that the above Amended and Restated Declaration of Protective Covenants for Wyndcliff and the following Amended and Restated Bylaws of Wyndcliff at Town Center Homeowners Association, Inc. were duly adopted by the required members holding at least 2/3 of the total eligible Association vote, with any required notices duly given.

This 15 day of February, 2019.

WYNDCLIFF AT TOWN CENTER HOMEOWNERS ASSOCIATION, INC.

Sworn to and subscribed before me this 15 day of February, 2019.

Man Yi Liang
Witness

Sohin Patel
Notary Public

[Notary Seal]

By:

Bonnie Lins (Seal)
Bonnie Lins, President

Joni Van Orden (Seal)
Joni Van Orden, Secretary

[Corporate Seal]

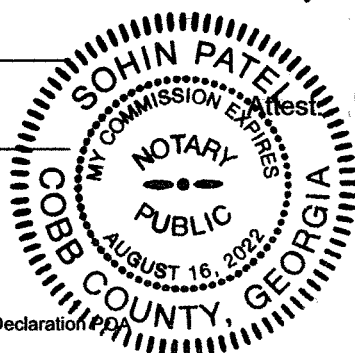


EXHIBIT "A"

**Amended and Restated Declaration of Protective Covenants
for Wyndcliff**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 568 of the 16th District, 2nd Section, Cobb County Georgia, being Lots 1 through 95, inclusive, Wyndcliff at Town Center Subdivision, as per plats recorded in Plat Book 122, Page 32, *et seq.*, and Plat Book 132, Page 63, *et seq.*, Cobb County, Georgia Records, which Plats are hereby adopted and incorporated herein by reference.

Lease Terms Exhibit - Addendum to Lease
[This Addendum is required with all leases of Lots at Wyndcliff]

This Addendum is made and entered into on the date of execution hereof by the last party signing below, by and between the undersigned parties, and this Addendum hereby amends that Lease Agreement between the undersigned Landlord and Tenant dated _____, 20____, for the lease of Landlord's lot ("Lot") at Wyndcliff, by adding the following provisions thereto:

- 1. ASSOCIATION IS THIRD-PARTY BENEFICIARY; CONFLICTS.** Tenant and Landlord acknowledge and agree that the Wyndcliff at Town Center Homeowners Association, Inc. (the "Association"), is a third-party beneficiary of the promises made in this Addendum to the Lease Agreement, and that the Association may enforce any of the provisions of this Addendum against Landlord and Tenant. Landlord and Tenant also acknowledge and agree that Landlord and Tenant have been provided copies of, have read, are fully aware of, fully understand, and will strictly comply with all provisions of this Addendum, and with the Amended and Restated Declaration of Protective Covenants for Wyndcliff, the Association's Bylaws and rules and regulations, as may be amended. If there are any conflicts between the provisions of the Lease Agreement and this Addendum, then the provisions of this Addendum shall control. Except as expressly amended hereby, the Lease Agreement shall continue in full force and effect.
- 2. COMPLIANCE AND ENFORCEMENT BY ASSOCIATION.** Tenant shall control the conduct of his or her family, guests, invitees and pets to assure compliance with the Association's legal documents and shall indemnify and hold Landlord and the Association harmless for any such person's failure to comply. Landlord and Tenant agree that the violation by Tenant, or any occupant or person living with Tenant, of any provision of this Addendum, the Declaration, Bylaws or Association rules and regulations shall constitute a default under this Lease, and that the Association is hereby granted the authority and power to declare the Lease in default and terminated for any such violation. The Association may bring an action against the Landlord and/or Tenant for damages and/or injunctive relief, or may impose fines and/or other sanctions under the Declaration, Bylaws or Georgia law, including all remedies available to a landlord upon breach or default of a lease (including eviction of Tenant), for violations of the Declaration, Bylaws, Association rules and regulations or this Lease. Failure by the Association to enforce any of its rights shall not be deemed a waiver of the right to do so thereafter. Landlord delegates and assigns to the Association, at the Board's discretion, the power to evict Tenant on behalf of and for the benefit of Landlord. If the Association proceeds to evict Tenant, any costs associated therewith, including attorneys' fees and court costs, shall be specially assessed against Landlord's Lot and shall be a personal obligation of Landlord, being deemed as an expense which benefits the leased Lot and Landlord. If Tenant, or any guest, invitee, licensee or family member of Tenant violates the Declaration, Bylaws or Association rules/regulations for which a fine is imposed, or damages the Wyndcliff property, such fine and/or repair costs may be assessed against Tenant and/or Landlord, as provided in the Declaration.
- 3. PAYMENT OF ASSESSMENTS.** Upon request by the Association, Tenant shall pay to the Association all unpaid annual and special assessments, and other Association charges, which come due or are due during the term of the Lease and any other period of occupancy by Tenant. However, Tenant need not make such payments to the Association in excess of, or before the due dates for, Tenant's normal monthly rental payments to Landlord under the Lease. All such payments made under this Paragraph shall reduce, by the same amount, Tenant's obligation to make monthly rental payments to Landlord. If Tenant fails to comply with such request, Tenant shall be liable to the Association for all such sums, plus late or delinquent charges, interest, costs of collection and reasonable attorneys' fees actually incurred, to the same extent as if Tenant were the owner of the Lot during the term of this Lease and any other period of occupancy by Tenant.
- 4. MAINTENANCE AND INDEMNIFICATION.** Tenant shall promptly advise the Landlord of any condition of the Lot which requires repair or maintenance by Landlord, and Tenant shall promptly advise the Association of any condition of the Common Property affecting the Lot which requires repair or maintenance by the Association. Tenant shall be liable for and shall indemnify, release and hold Landlord and the Association harmless from any damage or injury to the person or property of Tenant or any other person if such damage or injury is due, in whole or in part, to: (1) the act or negligence of the Tenant, Tenant's guests, family, licensees or invitees, or (2) any failure of Tenant to report in writing to Landlord and the Association any defective condition which Landlord or the Association would be required to repair under the terms of the Declaration and this Lease.
- 5. USE OF COMMON AREAS.** Landlord transfers and assigns to Tenant for the term of this Lease all privileges that Landlord has to use any Association amenities. Landlord and Tenant agree that delinquency by Landlord in the payment of assessments or other charges to the Association authorizes the Association to suspend Common Property use privileges. Landlord and Tenant agree that the Association may notify the Tenant of any such suspension of privileges caused by the Landlord's delinquency.
- 6. SECURITY.** Landlord and Tenant acknowledge and agree that the Association may, but shall not be required to, periodically provide measures or take actions which improve safety at the Wyndcliff community. However, Landlord and Tenant, for themselves and their guests, licensees and invitees, acknowledge and agree that the Association is not a provider of security and shall have no duty to provide security on or at the community. Landlord and Tenant shall be responsible to protect their person and property and to provide such security as they deem appropriate. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken.

IN WITNESS WHEREOF, the parties have executed this Addendum the day and year first above written.

TENANT: _____
(Signature)

LANDLORD: _____
(Signature)

TENANT: _____
(Signature)

Name: _____
(Please Print)

Name(s): _____
(Please Print)

Date: _____

Date: _____

