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Return to: GADDIS & LANIER, LLC
3330 Cumberland Blvd., Suite 500
Atlanta, Georgia 30339
Attn: Ashley Lanier

STATE OF GEORGIA
COUNTY OF GILMER

CROSS REFERENCE: Deed Book 629
Page 167

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR MOUNTAIN CREEK HOLLOW**

WHEREAS, Mountain Creek Hollow, Inc., a Georgia corporation, ("Declarant") recorded a Declaration of Covenants, Conditions and Restrictions for Mountain Creek Hollow October 28, 1998, in Deed Book 629, Page 167, et. seq., Gilmer County, Georgia, records (hereafter the "Declaration"); and

WHEREAS, Paragraph two of the Declaration submits the community to the terms of the Georgia Property Owners Association Act ("Act") and O.C.G.A. § 44-3-226 of the Act provides, in relevant part, that the Declaration shall be amended only by the agreement of lot owners of lots to which two-thirds of the votes in the association pertain or such larger majority as the instrument may specify; and

WHEREAS, the Declaration does not specify a larger majority for amendment and, as such, the Declaration may only be amended by agreement of lot owners of lots to which two-thirds (2/3) of the votes in the association pertain; and

WHEREAS, at least 2/3 of the owners of lots within Mountain Creek Hollow desire and have voted to amend the Declaration as outlined below; and

WHEREAS, this amendment does not materially or adversely affect the security title and interest to any mortgagee, and

NOW, THEREFORE, the Declaration is amended as follows:

1.

The Declaration is hereby amended by adding a new Paragraph 17 thereto as follows:

17. Leasing and Occupancy. To preserve the character of the Association Property as predominantly owner-occupied, the Leasing of Lots is prohibited, except by the Association and as may be provided herein.

(a) Definitions.

(i) **"Leasing"** means the regular, exclusive occupancy of a Lot by any person(s) other than:

(A) the Owner or a parent, child or spouse of an Owner (collectively referred to as "Authorized Occupant");

(B) an Authorized Corporate Occupant (defined below);
or

(C) a roommate of an Authorized Occupant or Authorized Corporate Occupant, when the Authorized Occupant or Authorized Corporate Occupant occupies the Lot as his or her primary Lot.

(ii) **"Authorized Corporate Occupant"** means an officer, director, shareholder or member 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 any such occupancy. The name of each Authorized Corporate Occupant shall be designated in writing to the Board and may not be changed more frequently than once every 12 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.

(iii) **"Grandfathered Owner"** means an Owner who is lawfully leasing his or her Lot on the date this Amendment is recorded in the Gilmer County, Georgia land records (the "Effective Date"). To qualify as a Grandfathered Owner, the Owner must, within 30 days of the Effective Date, provide the Board with a copy of the lease in effect on the Effective Date. Grandfathering shall apply only to the Lot owned by such

Grandfathered Owner on the Effective Date. Grandfathering shall automatically expire and any lease of the Lot shall automatically terminate on the earlier of: (1) the date the Grandfathered Owner conveys title to the Grandfathered Lot to any Person (other than the Owner's spouse); or (2) the date that all current Occupants of the Grandfathered Lot vacate and cease to occupy the Lot.

(iv) **"Grandfathered Lot"** means the Lot owned by a Grandfathered Owner on the Effective Date hereof.

(b) Authorized Leasing.

Leasing of Lots is allowed only by members in good standing who qualify as: (1) a Grandfathered Owner; (2) a non-Grandfathered Owner who has received a Hardship Leasing Permit as provided below; (3) the Association. Hardship Permits shall be valid only as to a specific Owner and Lot and shall not be transferable between either Lots or Owners (including a subsequent Owner of a Lot where such permit was issued to the Owner's predecessor-in-title).

(i) Hardship Permits. If the inability to lease will result in an undue hardship to the Owner, then the Owner may seek to lease on a hardship basis, for a term not to exceed one year, by applying to the Board of Directors for a Hardship Permit. The Board may approve or deny an Owner's request for a Hardship Permit 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 such permit is issued; (3) the number of outstanding Hardship Permits; (4) the Owner's ability to cure the hardship; and (5) whether previous Hardship Permits have been issued to such Owner; provided, however, a Hardship Permit shall not be issued 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 is in violation of this Declaration, the By-Laws, or any Association rules and regulations.

A "hardship" as described herein shall include, but not be limited to, the following situations: (1) when the Board determines that an Owner must relocate his or her residence outside of Gilmer County, Georgia, and cannot, within six months from the date that the Lot was placed on the market, sell the Lot, except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) when the Board determines that an Owner must temporarily relocate out of the metropolitan-Atlanta area for employment purposes and intends to return to reside in the Lot within one year; or (3) an Owner dies and the Lot is being administered by his or her estate.

Unless otherwise determined by the Board, a Hardship Permit authorizes an Owner to lease the Lot once for a term not to exceed one (1) year.

(ii) Expiration and Revocation of Permits. Hardship Permits are automatically revoked upon: (1) the sale or transfer of the Lot to a third party (excluding sales or transfers to an Owner's spouse); (2) the failure of an Owner to lease his or her Lot for 120 consecutive days at any time after the issuance of such permit; or (3) the occupancy by the Owner.

A Hardship Permit shall be revoked automatically if, during the term of such permit, the Owner is approved for and receives a Leasing Permit. An Owner may apply for an additional Hardship Permit at the expiration or revocation of a previous one.

(c) General Leasing Provisions.

(i) Notice and Approval. All leases shall be in writing and in a form approved by the Board of Directors prior to the effective date of the lease. At least seven (7) days before entering into a lease, the Owner shall provide the Board with: (1) a copy of the proposed lease; (2) the names, phone numbers, work locations and work phone numbers of the proposed tenants and all other occupants of the Lot; (3) the Owner's primary Lot address and phone number, work location and work phone number; and (4) such other information required by the Board. If the form of a lease is disapproved, the Board shall notify the Owner what changes are required to bring the lease into compliance with this Declaration, By-Laws or any rules and regulations promulgated thereto. Nothing herein gives the Board the right to approve or disapprove a proposed tenant; the Board's approval or disapproval shall be limited to the form of the proposed lease. Within 10 days after executing a lease for a Lot, the Owner shall provide the Board with a copy of the executed lease.

(ii) Lease Terms. Lots may be leased only in their entirety; no rooms or fractions of Lots may be leased without prior written Board approval. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than twelve (12) months, except with written Board approval.

(iii) Liability for Assessments; Compliance. The Owner must provide the tenant copies of this Declaration, By-Laws or any rules and regulations promulgated thereto. The following provisions are incorporated into each lease or occupancy of any Lot, whether or not expressly stated therein:

(A) Compliance with the Rockbridge Summit Legal Documents. All terms defined in the Declaration of Covenants, Restrictions and Easements for Rockbridge Summit are incorporated herein by

this reference. The Owner and each tenant and Occupant shall comply with all provisions of the Declaration, Bylaws or any rules and regulations of the Rockbridge Summit community. The Owner and tenant also are responsible for violations by any occupants and guests of the Lot; notwithstanding the fact that such occupants are fully liable and may be sanctioned for any such violation.

If a Lot is leased or occupied in violation of the Association Declaration, Bylaws or rules, or if the Owner, tenant, occupant or guest violates such documents, the Association's Board of Directors shall be authorized to take all enforcement actions against the Owner, tenant and/or occupant authorized under the Declaration, Bylaws or any Association rules.

- (B) Use of Association Property. The Owner transfers and assigns to the tenant, for the term of the lease, all rights and privileges the Owner has to use any of the Association Property and any facilities located thereon.
- (C) Liability for Assessments. The Owner and tenant acknowledge and understand that if Owner fails to pay an assessment or any other charge to the Association when due, the delinquent Owner consents to the assignment of any rent received from the tenant during the period of the delinquency. In such case, upon request by the Board, the tenant shall pay to the Association all unpaid assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by the tenant. However, the tenant 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. Owner acknowledges, understands and accepts that all such payments made by the tenant shall reduce, by the same amount, the tenant's obligation to make monthly rental payments to the 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.
- (D) Enforcement. If a Lot is leased or occupied in violation of the Declaration, Bylaws or any Association rules, or if the Owner, occupant or guest violates the Declaration, Bylaws or any Association rules, such violation is deemed to be a default under the terms of this lease or occupancy. In addition to all other remedies permitted by the Declaration, such default authorizes the Owner and/or the Association, as the Owner's delegate and attorney-in-fact, to terminate this lease and/or occupancy and to evict all Occupants, without liability, in accordance with Georgia

law. The Association also may require the Owner to evict the occupants for any such violation.

(d) Number of Occupants. 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.

IN WITNESS WHEREOF, the undersigned officers of the Mountain Creek Hollow Homeowners Association, Inc., hereby certify that the above Amendment to the Declaration was duly adopted by the required percentage of the Association and its membership, with all required notices duly given.

This ____ day of _____, 20____.

**MOUNTAIN CREEK HOLLOW HOMEOWNERS
ASSOCIATION, INC.**

By: _____[SEAL]
President

Attest: _____[SEAL]
Secretary

[CORPORATE SEAL]

Sworn to and subscribed to before me
this ____ day of _____, 20____.

Witness

Notary Public [NOTARY SEAL]