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Forsyth County, GA
Douglas Sorrells Clerk Superior Ct
BK 4962 PG 480-485

Please return recorded the instrument to:
STEVEN M. WINTER, ESQ.
Weinstock & Scavo, P.C.
3405 Piedmont Road, N.E., Suite 300
Atlanta, Georgia 30305

Cross Reference: Deed Book 559
Page 500

STATE OF GEORGIA
COUNTY OF FORSYTH

AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR GRAN FOREST

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAN FOREST is made this 7 day of November, 2007 by the affirmative vote of the Owners of at least seventy-five percent (75%) of the Lots in Gran Forest, all in accordance with the then applicable Declaration governing such property as described below.

WITNESSETH:

WHEREAS, Holyoke Corporation, a Georgia corporation, recorded that certain Declaration of Protective Covenants and Restrictions for Gran Forest on November 15, 1991 in Deed Book 559, Page 500 et seq. of the Forsyth County, Georgia records (hereinafter "Declaration");

WHEREAS, Holyoke Corporation assigned its rights, privileges and options reserved in the Declaration of Protective Covenants and Restrictions for Gran Forest to Hallock Communities, L.P., a Georgia limited partnership (hereinafter collectively the "Developer"), by the Assignment of Declarant's Rights filed and recorded on July 2, 1993 in Book 669, Page 415 of the Forsyth County, Georgia records;

WHEREAS; the Declaration was amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Gran Forest by Developer filed and recorded on May 5, 1992 in Deed Book 586, Page 675, et seq., of the Forsyth County, Georgia records; as further amended by that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for Gran Forest by Developer filed and recorded on September 24, 1992 in Deed Book 611, Page 83, et seq., of the Forsyth County, Georgia records; as further amended by that certain Third Amendment to Declaration of Covenants,

THIS AMENDMENT IS INTENDED TO SUBJECT THE PROPERTY SUBJECT TO THE DECLARATION TO THE GEORGIA PROPERTY OWNERS ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ.

Conditions and Restrictions for Gran Forest by Developer filed and recorded on July 2, 1993 in Deed Book 669, Page 416, et seq., of the Forsyth County, Georgia records; as further amended by that certain Fourth Amendment to Declaration of Covenants, Conditions and Restrictions for Gran Forest by Developer, filed and recorded on January 19, 1994 in Deed Book 725, Page 216, et seq., of the Forsyth County, Georgia records; as further amended by that certain Fifth Amendment to Declaration of Covenants, Conditions and Restrictions for Gran Forest by Developer filed and recorded on April 6, 1994 in Deed Book 746, Page 678, et seq., of the Forsyth County, Georgia records; as further amended by that certain Sixth Amendment to Declaration of Covenants, Conditions and Restrictions for Gran Forest by Developer filed and recorded on July 25, 1994 in Deed Book 776, Page 90, et seq., of the Forsyth County, Georgia records; as further amended by that certain Seventh Amendment to Declaration of Covenants, Conditions and Restrictions for Gran Forest by Developer filed and recorded on January 31, 1995 in Deed Book 825, Page 716, et seq., of the Forsyth County, Georgia records; (hereinafter together with the Old Declaration, collectively the "Original Declaration");

WHEREAS, pursuant to Article IX, Section 9.02 of the Declaration, the Declaration may be amended upon the affirmative vote of seventy-five percent (75%) of the Owners of Lots in Gran Forest; and

WHEREAS, Seventy-five percent (75%) of the Owners subject to the Declaration have approved the following Amendment to the Declaration of Covenants, Conditions and Restrictions for Gran Forest;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Article IX of the Declaration is hereby amended by deleting Section 9.01 in its entirety and substituting the following Section 9.01 in its place:

"Section 9.01. Duration. This Declaration shall run with and bind the Property for the maximum time permitted under Georgia law, and shall, to the extent so permitted, have perpetual duration. If any of the covenants, conditions, restrictions, easements or other provisions of this Declaration shall be unlawful, void or voidable for violation of the Rule Against Perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of those descendants of Her Majesty Queen Elizabeth II, the Queen of England, which are living as of the date this Declaration is executed."

2. Article IV of the Declaration is amended by deleting Section 4.01(d) in its entirety and substituting the following in its place:

(d) that all sums assessed against any Lot pursuant to this Declaration, together with late charges, interest in the maximum amount allowed by law, costs of collection including court costs, the expenses required for the protection and preservation of the Lot, and reasonable attorneys' fees actually incurred, all as further provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be prior and superior to all other liens whatsoever except: (a) liens for ad valorem taxes on the Lot; (b) the lien of any first priority mortgage covering the Lot and the lien of any mortgage recorded prior to the recording of this Amendment; or (c) the lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee or any successor grantee on the mortgage is the seller of the Lot.

3. Article IV of the Declaration is amended by deleting Section 4.01(f) in its entirety and substituting the following in its place:

"Section 4.01(f) that all assessments (together with interest thereon and late charges as provided in Section 4.07 of this Declaration and cost of collection including reasonable attorney's fees) levied against any Lot owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Lot as provided in Section 4.01(c) of this Declaration) a personal obligation which shall survive any sale or transfer of the Lot owned by him; and his grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of the conveyance without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee; provided, however, that if the grantor or grantee shall request a statement from the Association as provided in Section 4.08 of Article IV hereof, such grantee and his or her successors, successors-in-title, and assigns shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments against such grantor in excess of any amount set forth in the statement.

In the event that the holder of a first priority mortgage or second purchase money mortgage of record, provided that neither the grantee or any successor grantee on the secondary purchase money mortgage is the seller of the Lot, or any other person acquires title to any Lot as a result of foreclosure of any such mortgage, such holder or other person and his or her successors, successors-in-title, and assigns shall not be liable for nor shall the Lot be subject to any lien for assessments under the Georgia Property Owners Association Act or under the Declaration, on account of any period prior to the acquisition of title; provided, however, that the unpaid share of the assessment or assessments shall be deemed to be a common expense collectable from all of the Lots and the Owners thereof, including such holder or other person and his or her successors, successors-in-title, and assigns. A foreclosure shall not relieve the mortgagee in possession or the purchaser at any foreclosure sale from any liability from any assessments becoming due after such foreclosure."

4. Article IV of the Declaration is amended by adding thereto Section 4.01(g) which shall read as follows:

(g) to pay to the Association any specific assessment which may be levied by the Association pursuant to the Declaration against any Lot owned by him;

5. Article IV of the Declaration is amended by deleting Section 4.07 in its entirety and substituting the following in its place:

"Section 4.07 Effect of Nonpayment of Assessments. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid when due shall also include:

(a) A late or delinquency charge not in excess of the greater of Ten Dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment thereof not paid when due;

(b) Interest on each assessment or installment thereof and any delinquency or

late charge pertaining thereto at the rate of ten percent (10%) per annum from the date the same was first due and payable;

(c) The costs of collection, including court costs, the expenses required for the protection and preservation of the Lot and reasonable attorneys fees actually incurred; and

(d) The fair rental value of the Lot from the time of the institution of an action until the sale of the Lot at foreclosure, or until judgment rendered in the action is otherwise satisfied.

If any delinquent assessment or portion thereof is not paid within thirty (30) days after written notice is sent to the Lot Owner to make such payment, the entire unpaid balance of the assessment may be accelerated at the option of the Board and declared due and payable in full, and legal proceedings may be instituted to enforce such lien and personal obligation. Such notice shall be sent by certified mail, return receipt requested to the Lot Owner, both at the address of the Lot and at any other address or addresses as the Lot Owner may have designated to the Association, in writing, specifying the amount of the assessments then due and payable, together with authorized late charges and interest accrued thereon. The lien for such assessments may be foreclosed by the Association, suit, judgment or foreclosure in the same manner as other liens for the improvement of real property. The Board of Directors, acting on behalf of the Association, shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, encumber and convey the same. The Association shall, in addition to and not in lieu of the foregoing remedy, have the right to bring an action against the Lot Owner to recover all assessments, interest, late fees, costs of collection (including court costs and reasonable attorneys fees actually incurred), fines and other charges for which such Lot Owner is personally obligated pursuant to the terms hereof. The lien for assessments shall lapse, and be of no further effect, as to assessments or installments thereof, together with late charges and interest applicable thereto, which first became due and payable more than three (3) years prior to the date upon which the notice contemplated in this Section is given or more than three (3) years prior to the institution of an action therefore if an action is not instituted within ninety (90) days after the giving of the notice. The recording of this Amendment shall constitute record notice of the existence of the automatic lien provided by the Georgia Property Owners Association Act, and no further recordation of any claim of lien for assessments shall be required."

6. Article IV of the Declaration is amended by adding thereto at the end a new Section which shall read as follows:

"Section 4.10 Specific Assessments. The Board shall have the power to levy specific assessments as hereinafter provided. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors, and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The Board may specifically assess lots for the following Association expenses, except for expenses incurred for maintenance and repair of items that are the maintenance responsibility of the Association, as provided herein:

(a) Any common expenses benefiting less than all of the Lots shall be specifically assessed equitably among all of the Lots so benefited, as determined by the Board of Directors;

(b) Any common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots shall be specifically assessed against the Lot or Lots, the conduct of any occupant, licensee or invitee of which occasioned any such common expenses; and

(c) Any common expenses significantly disproportionately benefiting all of the Lots shall be assessed equitably among all of the Lots in the development as determined by the Board of Directors.

A specific assessment assessed hereunder shall be and become a lien against such Lot(s) and the personal obligation of the Owner(s) thereof. A specific assessment may be collected in the same manner as the annual assessment assessed hereunder."

7. Article IV of the Declaration is further amended by deleting Section 4.11 thereof in its entirety and substituting the following Section 4.11 in its place:

"Section 4.11 Statement from Association. Any Owner, mortgagee of a Lot, person having executed a contract for the purchase of a Lot, or a lender considering the loan of funds to be secured by a Lot, shall be entitled upon request to receive a statement from the Association or its management agent setting forth the amount of assessments past due and unpaid together with late charges, interest, attorneys fees and other costs applicable thereto against that Lot. Such request shall be in writing, shall be delivered to the registered office of the Association, and shall state an address to which the statement is to be directed. Failure on the part of the Association, within five (5) business days from receipt from such request, to mail or otherwise furnish a statement regarding amounts due and payable at the expiration of such five-day period with respect the Lot involved to such address as may be specified in the written request therefore shall cause the lien for assessments created hereunder to be extinguished and of no further force or effect as to the title or interest acquired by the purchaser or lender, if any, as the case may be, and their respective successors and assigns, in the transaction contemplated in connection with such request. The information specified in such statement shall be binding upon the Association and upon every Owner. Payment of a \$10.00 fee is required as a prerequisite to the issuance of each such statement, and the payment of the fee shall accompany any such request."

8. Article IX of the Declaration is hereby further amended by deleting the second sentence from Section 9.02 in its entirety and substituting the following sentences in its place:

"The Declaration may be amended may be amended by the agreement of Owners of Lots to which two-thirds (2/3) of the votes in the Association pertain. Any amendment shall require the sworn statement of the president, vice president or secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that agreement of the required vote was otherwise lawfully obtained and that all notices required by

the Georgia Property Owners Association Act were properly given.”

9. The Declaration is further amended by adding thereto an Article XIV which shall read as follows:

"ARTICLE XIV
Adoption of Georgia Property Owners Association Act

“The Development, all Lots and all Owners and occupants of Lots shall be subject to and governed by the Georgia Property Owners Association Act set forth in Article VI of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, as the same now exists or may be amended from time to time.”

10. Except as amended herein, the Declaration shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, this Amendment to the Declaration of Covenants, Conditions and Restrictions for Gran Forest was approved by the affirmative vote of the Owners of at least seventy-five percent (75%) of the Lots in Gran Forest.

Gran Forest Swim and Tennis Club, Inc.

By: *Kimberly Frye*
President

Attest: *Nicola Schuads*
Secretary

Signed, sealed and delivered before me:

Danielly H
Unofficial Witness

Joseph Blankenship
Notary Public

[Notary Seal],
Notary Public, DeKalb County, Georgia
My Commission Expires September 18, 2009