

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)



BP1026919

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FIRST AMENDMENT TO DECLARATIONS OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND FIRST AMENDMENT TO BY-LAWS

WHEREAS, this is the First Amendment to Declaration of Covenants, Conditions and Restrictions and First Amendment to By-Laws of Wando East Townhomes Owners' Association.

WHEREAS, Wando East Townhomes Owners' Association ("Association") is constituted to provide and charged with the operation, care, upkeep and maintenance of the Association and its property as provided for in the Declaration of Covenants, Conditions and Restrictions ("Declaration") recorded August 23, 1983, in Book T132 at Page 184; Amendment to Restrictions recorded August 1, 1984, in B139, at Page 690; Wando East Restrictions recorded May 3, 1985, in Book B145, at Page 809; Wando East Restriction, recorded April 19, 1985, in Book T144, at Page 027; Amendment to Restrictions recorded April 19, 1985 in Book, T144, at Page 035; By-Laws of Wando East Townhomes Owners' Association ("By-Laws"), recorded November 19, 2020, in Book 0937, at Page 019 and Rules & Regulations recorded December 15, 2020, in Book 0943, at Page 494 with the Charleston County Register of Deeds. Hereinafter, the Declaration, Bylaws and any promulgated rules, regulations and guidelines, and any amendments and supplements to any of them, collectively referred to as "Governing Documents".

WHEREAS, Section 3 of Article VIII of the Declaration provides that the Declaration may be amended by the approval of "not less than seventy-five (75%) percent of the Lot Owners."

WHEREAS, Section 1 of Article XIII of the Bylaws provides that the Bylaws may be amended "by a vote of a majority of a quorum of members present in person or by proxy . . ."

WHEREAS, Section 4 of Article III states that "the presence at the meeting of members entitled to cast, or proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action . . .",

WHEREAS, the Declaration and Bylaws are silent as to voting by written or electronic ballot by Members in lieu of a meeting and therefore, the South Carolina Nonprofit Corporation Act, 33-31-101, et seq., South Carolina Code of Laws, as amended, controls. The Act provides the following pertinent sections. The Act provides the following pertinent sections. Section 33-31-708 permits action without a meeting and by written ballot if the "corporation delivers a written . . . ballot to every member entitled to vote on the matter." Subsection (b) states the written ballot shall: "(1) set forth each proposed action; and (2) provide an opportunity to vote for or against each proposed action." Subsection (c) provides that "[a]pproval by written or electronic ballot pursuant to this section is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which

the total number of votes cast was the same as the number of votes cast by ballot." Subsection (d) further requires that solicitations for votes by written ballot shall (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve each matter other than election of directors; and (3) specify the time by which a ballot must be received by the corporation in order to be counted.

WHEREAS, via a written or electronic ballot in lieu of a meeting, this Amendment was put to a vote of the Owners/Members. The required quorum was present and this Amendment was approved by the requisite number of Members/Owners on July 30, 2021, and has been certified as provided in **Exhibit A**, attached hereto and incorporated herein by reference.

NOW, THEREFORE, in order to protect and preserve a safe, secure, valued and attractive community, to maintain good order and property values, and to promote the common good, the Declaration and By-Laws are hereby amended as follows.

1. The foregoing recitals are and shall be deemed material and operative provisions of this Amendment and not mere recitals, and are fully incorporated herein by this reference.

2. All capitalized terms used herein shall have the same meaning ascribed to them in the Declaration and By-Laws.

3. Article IV of the Declaration is hereby amended by the addition of a new section, Section 10, as follows, in bold:

Section 10. Capital Contribution. Notwithstanding anything to the contrary in this Declaration, a working capital contribution shall be established by the Board of Directors, which amount shall be set by the Board of Directors from time to time and in its sole discretion. The working capital contribution payable as of the date hereof shall be an amount equal to one-quarter of one percent (.25%) of the purchase price of the Lot (or any part thereof). Except for Exempt Transfers (as defined below in this Section), each person or entity ("Subsequent Lot Owner") who purchases, has transferred to him or who has conveyed to him a Lot (or any part thereof) from an Owner shall pay to the Association, at the time title is conveyed to such Subsequent Lot Owner, the working capital contribution. The working capital contribution sum is and shall remain distinct from any annual assessment, shall not be considered advanced payment of any annual, special, individual or other kind of assessment, and shall have no effect on any future assessments of any kind. The purpose of the capital contribution is to ensure that the Association will have cash available for common expenses, to meet unforeseen expenditures and/or to acquire additional equipment and services deemed necessary or desirable by the Board of Directors. At the Board of Director's discretion, such funds may be transferred to the Association's reserve account. Working capital contributions are payable at closing, and if not paid, the amount due shall be deemed an assessment, and if not paid when due, all the provisions of the Articles of Incorporation, Declaration, Bylaws and any promulgated rules, regulations and guidelines, and any

amendments and supplements to any of them (collectively referred to hereinafter as the "Governing Documents") relating to the payment, lien and collection of assessments shall be applicable, including without limitation being a personal obligation of the Subsequent Lot Owner and a lien against the Lot, whether or not a suit or legal proceeding is commenced.

Notwithstanding the foregoing, working capital contributions shall not be due and payable for the following transfers or conveyances (collectively, "Exempt Transfers"):

- (a) the lease of a Lot to a leasehold tenant or lessee;
- (b) the transfer of a Lot to a spouse of an Owner or a direct lineal descendant of the Owner;
- (c) the transfer of a Lot to a trust whose beneficiaries are solely the spouse and/or direct lineal descendants of the Owner;
- (d) the transfer of a Lot to an entity in which the Owner owns, directly or indirectly, not less than fifty-one percent (51%) of the ownership interest in such entity;
- (e) the transfer of a Lot to a person that owns, directly or indirectly, not less than fifty-one percent (51%) of the ownership interests in the Owner; and
- (f) notwithstanding anything contained herein to the contrary, no such working capital amount shall be collected upon conveyance of a Lot to a mortgagee following foreclosure or pursuant to a deed in lieu of foreclosure, but shall be paid in conjunction with the sale or conveyance of the Lot by a mortgagee to a Subsequent Lot Owner.

4. Section 1 of Article III of the By-Laws is hereby amended by the deletion of the language of that section and its replacement in its entirety with the following new language as follows, in bold:

Annual meetings of the members shall be held on the date, time and form as shall be determined by the Board of Directors.

5. Section 1 of Article IV of the By-laws is hereby amended by the deletion of the language of such section and its replacement in its entirety with the following new language as follows, in bold:

The affairs of the Association shall be managed by a board of three (3) directors. A director must be a member or a spouse of a member of the Association, or a designee (with proper authority and designated in writing) of a member of the Association which is a legal entity.

6. Section 2 of Article IV of the By-laws is hereby amended by the deletion of the language of such section and its replacement in its entirety with the following new language as follows, in bold:

At the first annual meeting after the date hereof, the members shall elect three (3) directors to replace all of the then serving directors. At such election, the director receiving the most votes shall be elected for a three (3) year term, the director receiving the second most votes shall be elected for a two (2) year term, and the director receiving the least votes shall be elected for a one (1) year term. Thereafter, directors shall be elected to three (3) year terms. Further, the Board of Directors, in its sole discretion, may reasonably hold such election(s) and determine such term(s) as may be necessary to maintain staggered terms.

7. Except as modified in this Amendment, the Declaration and By-Laws shall remain in full force and effect. To the extent there is a conflict between the Declaration and/or the By-Laws and this Amendment, this Amendment shall control.

[Signature page to follow.]

EXHIBIT A

CERTIFICATION

Personally appeared before me: Leigh MARLOWE, President of Wando East Townhomes Owners' Association, who being duly sworn, allege and state as follows:

1. I am the duly elected President of the Wando East Townhomes Owners' Association.
2. I am over eighteen (18) years of age, competent, and make this Certification on personal knowledge.
4. Via written consent/written-electronic ballot in lieu of a meeting the foregoing First Amendment to Declaration of Covenants, Conditions and Restrictions and First Amendment to By-Laws of Wando East Townhomes Owners' Association, to which this Exhibit A is attached, was put to a vote of the Owners/Members. The required quorum was present and such amendment was approved by the requisite number of Owners/Members, and the agreement of the required parties was lawfully obtained.
5. I have certified, and am hereby certifying, the vote of the Owners/Members of Wando East Townhomes Owners' Association, and I certify the vote to have been as stated herein.

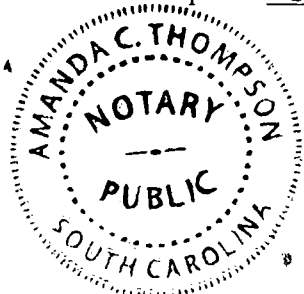
FURTHER THE AFFIANTS SAYETH NOT.

WANDO EAST TOWNHOMES
OWNERS' ASSOCIATION

Leigh Marlowe
By: Leigh MARLOWE
Its: President

SWORN and subscribed to before me
this 20 day of August, 2021.

Amanda C. Thompson
Notary Public for South Carolina
Printed Name of Notary: Amanda C. Thompson
My Commission Expires: 3/16/2030



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