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STATE OF GEORGIA
COUNTY OF GWINNETT

Indexing Notes:

Index each signatory in Grantor
Index;

Index The Moorings Homeowners
Association, Inc. in Grantor and
Grantee Indexes

**Cross Reference to Plats: Plat
Book 25, Page 78; Plat Book 36,
Page 94; Plat Book 36, Page 95;
Plat Book 42, Page 293; Plat Book
52, Page 239;**

**DECLARATION OF PROTECTIVE COVENANTS
AND PERMANENT MEMBERSHIP
FOR THE MOORINGS SUBDIVISION**

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WHEREAS, in 1975 the Eagle Service Corporation began development of The Moorings Subdivision in Gwinnett County and recorded a "Declaration of Protective Covenants – Moorings Unit 1" on May 13, 1975, at **Deed Book 958, Page 12**, Gwinnett County Records; and,

WHEREAS, in 1975 the Eagle Service Corporation began development of Unit 2 of The Moorings Subdivision in Gwinnett County and recorded a "Declaration of Protective Covenants – Moorings Unit 2" on August 4, 1975, at **Deed Book 992, Page 190**, Gwinnett County Records; and,

WHEREAS, in 1978 River Sound, Ltd. began development of Unit 3 of The Moorings Subdivision in Gwinnett County and recorded a "Declaration of Protective Covenants – Moorings Unit 3" on May 26, 1978, at **Deed Book 1480, Page 1**, Gwinnett County Records; and,

WHEREAS, in 1985, Jack F. Avery & Avery Mechanical Contractors, Inc. began development of Unit 4 of The Moorings Subdivision in Gwinnett County and recorded a "Declaration of Protective Covenants – Moorings Unit IV" on February 13, 1986, at **Deed Book 3377, Page 75**, Gwinnett County Records; and,

WHEREAS all of the foregoing covenants have, by their terms, expired; and,

WHEREAS certain lot owners in The Moorings Subdivision in Gwinnett County, Georgia, signing as additional signatories to this Declaration of Protective Covenants and Permanent Membership for The Moorings Subdivision ("Declaration"), are the owners of certain real property located in The Moorings Subdivision (the "Property") and desire to subject the Property to the terms and provisions of this Declaration and to hereby subject the Property to permanent mandatory membership in The Moorings Homeowners Association, Inc. ("Association"); and

WHEREAS, the undersigned officers of the Association desire to approve this Declaration on behalf of the Association; and

WHEREAS, the Lot Owners who have executed this Declaration do hereby consent, on behalf of each such Owner, Owner's successors, successors-in-title, heirs, and assigns, that such Owner's Lot shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in this Declaration, as a permanent Member (as defined in the Declaration) of the Association (with the classification set forth on the signatory pages attached hereto), all of which shall run with the title to Owner's Lot and shall be binding upon all persons having any right, title, or interest in Owner's Lot, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Each Owner understands and acknowledges that, by submitting Owner's Lot to permanent Membership in the Association, each Owner is hereby subjecting

Owner's Lot to mandatory assessments in favor of the Association, with lien rights afforded to the Association for mandatory assessments, in accordance with the Declaration. Each Owner also consents to the submission of the Common Property to this Declaration, as defined herein;

NOW, THEREFORE, the undersigned officers of the Association, and all lot owners signing as additional signatories to the Declaration hereby declare that all of the Property described in **Exhibit "A"** and **Exhibit "C"** shall be held, sold and conveyed subject to this Declaration, which is for the purpose of enhancing and protecting the desirability and attractiveness of, and which shall run with, the Property, and be binding on all parties having any right, title or interest in the Property or any part thereof, and shall, subject to all limitations herein provided, inure to the benefit of each owner of any portion of the Property, his heirs, grantees, distributions, successors and assigns and to the benefit of the Association.

**DECLARATION OF PROTECTIVE COVENANTS
AND PERMANENT MEMBERSHIP
FOR
THE MOORINGS SUBDIVISION**

1. **NAME AND LOCATION.**

The name of the property is The Moorings Subdivision, which property 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.

2. **DEFINITIONS.**

Generally, terms used in this Declaration, the By-Laws, 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. Unless the context otherwise requires, certain terms used in this Declaration, the By-Laws, and the Articles of Incorporation shall be defined as set forth in **Exhibit "B"** attached hereto and incorporated herein by reference.

3. **PROPERTY DESCRIPTION; PLATS.**

The Property subject to this Declaration and the Act is located in **Land Lots 27, 38 and 45 of the 6th District**, Gwinnett County, Georgia, being more particularly described in the signatory portion of this Declaration, in **Exhibits "A"** and **"C"** attached to this Declaration, and in the Plats, which Plats and Exhibits are specifically incorporated herein by this reference. For convenience, **Exhibit "A"** identifies those Lots in The Moorings Subdivision, in Gwinnett County, Georgia, which have been subjected to this Declaration and to Membership in the Association.

Only the real property described in this Paragraph 3 is subject to this Declaration.

However, by one or more recorded written Consents or supplementary declarations thereof, the Association and an Owner of a Lot in The Moorings Subdivision may subject other Lots within the Additional Property to this Declaration.

4. **EFFECTIVE DATE.**

As provided herein, Owners may submit their Lots to the terms of this Declaration initially or at any time after the recording of this Declaration. This Declaration shall not be effective, whether or not it is recorded, until and unless: (a) Owners constituting the equivalent of a total of at **least fifty (50) Members** have executed this Declaration as **Members**; (b) this Declaration and the signature pages attached hereto have been recorded in the Gwinnett County, Georgia land records; and (c) two (2) Association officers have executed this Declaration certifying that the required number of Members has been obtained. Additional Consents, by Owners of Lots within the Additional Property, may be recorded at any time subsequent to the recording of this Declaration, subject to the terms of this Declaration. Consents shall be valid only if executed by at least one (1) officer of the Association and recorded by the Association. A sample form is attached as **Exhibit "D"** hereto and incorporated herein by reference.

5. **ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.**

(a) **Membership & Voting.** Each Person who is the record Owner of a fee or undivided fee interest in any Lot in The Moorings Subdivision who subjects such Lot to Membership under this Declaration by execution of this Declaration or by written Consent shall be a Member of the Association. Members in good standing shall be entitled to use all Common Property and to vote on all Association matters, as set forth herein and in the By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any such Member Lot. The definition of Membership herein is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and 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 (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the By-Laws. Any rights and privileges of Membership, including the right to vote and to hold office, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned. When authorized to vote hereunder, Members shall be entitled to one (1) equal vote for each Lot owned. Members shall be entitled to vote on any and all matters brought before a vote of the Members of the Association and may serve as members of the Association's Board of Directors. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners determine among themselves and advise the Secretary prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it.

(b) Recreational Facility Use. Members in good standing shall be entitled to use all Association recreational facilities, if any, subject to this Declaration, the By-Laws and the rules and regulations of the Association.

6. ASSESSMENTS.

(a) General. The Association shall have the power to levy annual dues or assessments against all Members, as provided herein and in the By-Laws. The assessments for Common Expenses provided for herein shall be used for the general purposes of maintaining, repairing, replacing, insuring, managing, operating and otherwise operating the Property, enforcing this Declaration, insuring the Common Property (if any) for liability purposes, paying for utility services serving the Common Property, maintaining a reserve fund for future Common Property maintenance, repairs or improvements, and promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of Member Lots in the Property, as may be more specifically authorized from time to time by the Board. Except as otherwise provided herein, each Member Lot is hereby allocated equal liability as all other Member Lots for Common Expenses. **The Board shall be authorized, in its discretion, to prorate the first annual assessment of Lot Owners who become new Members between July 15th and December 31st of any year.**

(b) Creation of the Lien and Personal Obligation for Dues. Each Owner of a Member 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: (i) annual dues or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration.

All such dues, assessments and fees, together with charges, interest, costs, and reasonable attorney's fees actually incurred, in the maximum amount permitted under the Act, shall be a charge on such Member Lot and shall be a continuing lien upon the Lot against which each dues or assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the dues or assessment fell due. Each Owner of a Member Lot and his or her grantee shall be jointly and severally liable for all dues and assessments and charges due and payable at the time of any conveyance. Dues, assessments and fees shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include acceleration of any installments thereof for delinquent Owners upon ten (10) days written notice.

The lien provided for herein shall have priority as set forth in the Act. The sale or transfer of any Lot pursuant to foreclosure of a first priority Mortgage shall extinguish the lien for dues or assessments as to payments coming due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any dues or assessments thereafter coming due or from the lien thereof. No Member may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever.

(c) Delinquent Dues and Assessments. All dues and assessments and related charges not paid on or before the due date established by the Board shall be delinquent, and the Member shall be in default.

(i) If the annual dues or any part or installment thereof is not paid in full within thirty (30) days of the due date, a late charge equal to the greater of Ten Dollars (\$10.00) or ten percent (10%) of the amount not paid or such higher amount as may be authorized under the Act, may be imposed without further notice or warning to the delinquent Member, and interest at ten percent (10%) or the highest rate permitted under the Act shall accrue from the due date.

(ii) For Owners whose Lots are subjected to Membership in the Association, the Association, acting through the Board, may suspend the Owner's right to use the Common Property (if any facilities are located thereon) if the amounts remain unpaid for more than thirty (30) days, and institute suit to collect all amounts due pursuant to the provisions of the Declaration, the By-Laws, and the Act, if the amounts remain unpaid for more than sixty (60) days.

(iii) If part payment of assessments and related charges is made, the amount received shall be applied first to costs and attorneys' fees, as applicable, and then, in order, to late charges, interest, delinquent assessments, and current assessments.

(d) Maximum Assessments; Computation of Operating Budget and Assessment.

(i) Member Budget and Assessments. The maximum annual assessment for Members for the first fiscal year after the Effective Date of this Declaration shall not exceed Three Hundred Dollars (\$300.00). The Board may also charge new Members (those who purchase Lots from existing Members) an initiation fee, such amount to be determined by the Board.

The Board shall establish the annual assessment or dues chargeable to Members, covering the estimated costs of operating the Property. In addition to estimated costs of operating the Property, including repairing, replacing, and improving the Common Property, the budget shall include amounts to cover anticipated Common Expenses of operating and managing the facilities (if any) added to the Common Property (e.g., recreation area, , tennis courts and related facilities), including insurance, legal, accounting and other professional fees, utility costs, landscaping costs, and a reserve or capital contribution related to maintenance and operation of any amenities on the Common Property. The budget shall reflect anticipated income to be received from Members, and the assessments hereunder shall be determined from the budget prepared by the Board.

The budget and notice of assessment shall be sent or delivered to each Member at least thirty (30) days prior to the due date of the annual assessment. The budget shall not operate as a

limitation on expenditures by the Board, but, rather, the budget is merely an estimate of Common Expenses on which the Board may base the annual assessments.

Notwithstanding the above, the annual assessment for Members shall not increase by more than ten percent (10%) per year above the previous year's annual assessment without the approval of a Majority of the eligible Members voting by ballot or voting in person or by proxy at a duly called meeting of the Members. If a budget is voted down by the Membership as provided herein, or the Board fails for any reason to determine the annual assessment for any year, then the assessment for the current year shall continue for the succeeding year until the Board proposes a new budget or assessment following the procedures set forth above.

(e) Capital Budget and Reserve Contribution. As part of the annual budget and assessment, the Board may fix and establish an annual reserve or capital contribution, in an amount sufficient to permit meeting the projected capital and future needs of the Association.

(g) Statement of Account. Any Owner, Mortgage holder, or a Person having executed a contract for the purchase of a Member Lot, or a lender considering a loan to be secured by a Member Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Lot. **The Association shall respond in writing within five (5) business days of receipt of the request for a statement;** provided, however, the Association may require the payment of a fee, not exceeding Ten Dollars (\$10.00), or such higher amount as authorized by the Act, 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.

(h) Specific Assessments. In the discretion of the Board, any Association 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, including but not limited to reasonable attorneys' fees actually incurred by the Association, may be specially assessed against such Lot or Lots. Failure of the Board to exercise its authority under this Paragraph 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 exercise its authority under this Paragraph in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Paragraph.

7. MORTGAGEE'S RIGHTS.

(a) Mortgagee Approval of Actions. Unless at least two-thirds (2/3) of either the holders of first Mortgages on Member Lots or the Owners of the Member Lots give their consent, the Association shall not:

- (i) by act or omission seek to abandon or terminate the Association;

(ii) change the pro rata interest or obligations of any individual Member Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property (the granting of utility or public easements or rights-of-way or other easements shall not be deemed a transfer within the meaning of this provision); or

(iv) use hazard insurance proceeds for losses to any portion of the Common Property for other than the repair, replacement, or reconstruction of such portion of the Common Property.

(b) **Mortgagee Assessments Upon Foreclosure of Member Lot.** Where the Mortgagee holding a first priority Mortgage of record on a Member Lot or other purchaser of a Member Lot obtains title pursuant to judicial or non-judicial foreclosure of the 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. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Member 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 charges for the month in which title is passed.

(c) **Mortgagee Notices.** Upon written request to the Association, identifying the name and address of the holder and the Lot number or address, any Eligible Mortgage Holder of a Member Lot will be entitled to timely written notice of:

(i) any condemnation loss or any casualty loss which affects a material portion of the Common Property 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 Member Lot subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Lot Owner of any other obligation under the Declaration or By-Laws which is not cured within sixty (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) **Financial Statements.** Any holder of a first Mortgage on a Member Lot shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the Association's financial statement for the immediately preceding fiscal year, free of charge.

8. **ASSOCIATION RIGHTS AND RESTRICTIONS.**

The Association, acting through its Board of Directors, shall have the right and authority, in addition to all other rights it may have:

- (a) to make and enforce reasonable rules and regulations governing the use of the Common Property;
- (b) to enforce the provisions of this Declaration, the By-Laws and rules and regulations concerning the Common Property, by imposing reasonable monetary fines, suspending use and voting privileges of Members (as provided herein and in Section 44-3-223 of the Act), suspending or revoking use and membership privileges of Members, and using any other legal or equitable means, including self-help. These powers, however, shall not limit any other legal means of enforcing the Declaration, By-Laws and rules and regulations by either the Association or, in an appropriate case, by an aggrieved Member subject hereto. Any fines imposed against a Member shall be considered an assessment against such Member's Lot;
- (c) to grant permits, licenses, utility easements, and other easements, permits, public rights-of-way or licenses necessary for the proper maintenance or operation of the Common Property under, through, or over the Common Property, as may be reasonably necessary to or desirable for the ongoing development and operation of the Common Property;
- (d) to control, manage, operate, maintain, replace and, in the Board's discretion, improve all portions of the Common Property in accordance with the Declaration and By-Laws;
- (e) to deal with the Common Property in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of this Declaration;
- (f) to represent the Members in dealing with governmental entities involving the Common Property;
- (g) to acquire, hold and dispose of tangible and intangible personal property and real property; and
- (h) to exercise all powers available under Section 44-3-225 of the Act, and under other provisions of the Act, as the Board shall determine is appropriate.
- (j) any Covenants already in place (if any) encumbering the real property (such Covenants primarily dealing with architectural issues and restrictions) shall, to the extent not inconsistent with these revised Covenants, continue in force and effect. If any inconsistencies exist, the provision granting the Association the greatest authority shall control.

9. **INSURANCE.**

(a) The Association's Board or its duly authorized agent shall have the authority to obtain insurance for all insurable improvements on the Common Property, in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

(b) The Board shall obtain a public liability policy applicable to the Common Property (but only if the Association owns 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, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million Dollars (\$1,000,000.00).

(c) Premiums for all insurance obtained by the Association shall be a Common Expense of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

(d) All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the benefit of the Association and its Members, and shall contain such coverages and provisions as determined reasonable or appropriate by the Board.

(e) In addition to the other insurance required by this Paragraph, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and if determined necessary in the determination of the Board, a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment.

10. **REPAIR AND RECONSTRUCTION.**

In the event of damage to or destruction of all or any part of the Common Property as a result of fire or other casualty, unless eighty percent (80%) of the Members 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. In the event of substantial damage or destruction, Eligible Mortgage Holders on a Member Lot shall be entitled to written notice of the damage.

Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Common Property was originally constructed, except where changes are necessary to comply with current applicable building codes. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, including related professional fees, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a special assessment may be made against all of the Members in compliance with Paragraph 6 above.

11. **USE RESTRICTIONS.**

Each Member shall be responsible for ensuring that the Member's family, guests, tenants and occupants comply with all provisions of this Declaration, the By-Laws and the rules and regulations of the Association. In addition to any rights the Association may have against the Member's family, guests, tenants or occupants, the Association may take action under this Declaration against the Member as if the Member committed the violation in conjunction with the Member's family, guests, tenants or occupants.

There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property without prior written Board consent, except as specifically provided herein or in the Association's rules and regulations.

The Board may adopt such other reasonable rules or restrictions regarding use of the Common Property as it deems appropriate.

Exhibit E is a copy of the Covenants, as modified, that encumbered the Property within the Subdivision in prior years. **Exhibit E** is fully incorporated herein with the effect that the Covenants and use restrictions set forth in **Exhibit E** to this Declaration shall apply fully to the Lots and Members whose Property is subjected to this Declaration.

12. **SEVERABILITY.**

Invalidation of any one of these covenants or restrictions by judgment or 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.

13. **DURATION.**

The covenants and restrictions of this Declaration shall run with and bind the Property perpetually to the extent provided in the Act. Notwithstanding anything to the contrary herein, neither: (1) the foreclosure of Mortgages on one or more Member Lots subsequent to the recording of this Declaration, nor (2) the execution of one or more Consents in a defective manner, nor (3) that, as a result of such foreclosure(s) and/or defective executions, there are less than the equivalent of a **total of fifty (50) Members** at any time, shall affect the validity and enforceability of this Declaration as to all other Lots submitted hereto.

14. **AMENDMENT.**

This Declaration may be amended with the affirmative vote, written consent, or any combination thereof, of the Members holding at least **two-thirds (2/3) of the total eligible vote of the Association.** Notice of a meeting, if any, for consideration of any amendment hereto shall state the fact of consideration and subject matter of such proposed amendment. Any such amendment shall be certified by the President and Secretary of the Association and recorded in both the Gwinnett County, Georgia land records.

In addition to the above, amendments to this Declaration which materially affect the rights of Eligible Mortgage Holders must be approved by Eligible Mortgage Holders who represent at least fifty-one percent (51%) of the votes of Member Lots that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration to comply with the Act, any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time. The preambles to this Declaration are incorporated herein by this reference.

15. **MAINTENANCE.**

The Association shall maintain, keep in good repair and, in the Board's discretion, improve the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all structures, landscaping grass areas, paving and other improvements situated on the Common Property. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association if the Board has determined that such maintenance would benefit all Members. The Association also may bar Members who are not in good standing from using any Common Property or facilities.

16. **GENERAL PROVISIONS.**

(a) **Security.** The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Common

Property; however, each Member, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security on the Common Property. It shall be the responsibility of each Member to protect his or her person and property and all responsibility to provide security shall lie solely with each Member. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

(b) **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 or disability or any other trait protected by federal or state law.

(c) **Indemnification**. The Association shall indemnify every officer, director and committee member against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors or committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors or committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers, directors or committee members may also be members of the Association), and the Association shall indemnify and forever hold each such officer, director or committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

(d) **Implied Rights**. The Association may exercise any right or privilege given to it expressly by this Declaration, the By-Laws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

(e) **Dispute Resolution**. All Members must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute and submit the dispute to formal mediation before the Member files any lawsuit against the Association, the Board, any officer or director, or any property manager of the Association. The Member shall, in such notice and at the hearing and the mediation session, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Member's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall

schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of its receipt of the notice of hearing. If mediation is required, it shall be conducted in accordance with the Mediation Rules of the Superior Court of Gwinnett County, and the parties shall share the costs equally.

IN WITNESS WHEREOF, the undersigned Lot Owners at The Moorings Subdivision, by execution of this Declaration (or execution of the consents attached to this Declaration and incorporated herein by reference), do hereby submit the Property described herein and listed in **Exhibit "A"** hereto to the terms of this Declaration and to Membership in The Moorings Homeowners Association, Inc., and, further, the undersigned officers of The Moorings Homeowners Association, Inc., hereby certify that this Declaration was duly executed by the specified and/or required number of Members and by the Board of Directors of the Association.

This ____ day of _____, 2024.

THE MOORINGS HOMEOWNERS' ASSOCIATION, INC.

Sworn to and subscribed to before me this ____ day of _____ 2024.

By: _____
[Name] ,President

Witness

Attest: _____
Marlyn Carson, Secretary

Notary Public

[CORPORATE SEAL]

[Notary Seal]

EXHIBIT "B"

DEFINITIONS

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

(b) Additional Property means all lots shown on the Moorings Subdivision Plats which have not submitted to the terms and provisions of this Declaration.

(c) Articles or Articles of Incorporation mean the Articles of Incorporation of The Moorings Homeowners Association, Inc., filed with the Secretary of State of the State of Georgia, as amended.

(d) Association means The Moorings Homeowners Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

(e) Association Legal Instruments means this Declaration, all exhibits hereto, and the Moorings Subdivision Plats, all as may be supplemented or amended.

(f) Board or Board of Directors means the elected body responsible for management and operation of the Association.

(g) By-Laws mean the By-Laws of The Moorings Homeowners Association, Inc.

(h) Common Expenses mean the expenses anticipated or actually incurred by the Association in maintaining, repairing, replacing, and operating the Common Property and otherwise for the benefit of all Permanent Member Lots.

(i) Common Property means all property and easements now or hereafter owned by the Association for the common benefit of the Members, including, but not limited to, the entrance areas. The Common Property includes that property described in Exhibit "C" attached hereto and incorporated by this reference.

(j) Consent means a written document executed by a Lot Owner, recorded in the Gwinnett County, Georgia land records, submitting that Owner's Lot to the terms of this Declaration.

(k) Effective Date means the date that this Declaration is recorded in the Gwinnett County, Georgia land records.

(l) Eligible Mortgage Holder means a holder of a first mortgage secured by a Permanent Member Lot who has requested, in writing, notice of certain items as set forth herein.

(m) Lot means a portion of the Property or the Additional Property intended for ownership and use as a single-family dwelling site as permitted in this Declaration and as shown on the Plats, or amendments or supplements thereto, recorded in the Gwinnett County, Georgia land records.

(n) Member means a Lot Owner whose Lot has been subjected to Membership in the Association by execution hereof or by written Consent as provided herein, and which Lot therefore is a portion of the Property. Membership in the Association is permanent and mandatory and cannot be separated from a Lot but rather is appurtenant to and runs with title to a Lot by virtue of submission or written Consent as provided herein, with such rights, duties and privileges as set forth in this Declaration

(o) 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.

(p) Mortgagee or Mortgage Holder means the holder of any Mortgage.

(q) Officer means an individual who is elected by the Board to serve as President, Vice President, Secretary or Treasurer, or such other subordinate officers as the Board may determine necessary.

(r) Owner means the record titleholder of a Lot within The Moorings Subdivision, but shall not include a Mortgage Holder of the Lot.

(s) Person means any individual, corporation, firm, association, partnership, trust, or other legal entity.

(t) Plats mean the plats for The Moorings Subdivision recorded in the Gwinnett County, Georgia records as noted on the front page of these Covenants. The Plats are incorporated herein by this reference.

(u) Property means that real estate which is submitted to the Act and the provisions of this Declaration on the Effective Date (being the Member Lots), the Common Property (if any, to include easements for landscaping), and any portion of the Additional Property as is submitted hereto by written Consent after the Effective Date hereof. The Property is a residential property owners' development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq., as may be amended.

(v) The Moorings Subdivision means all Lots shown on the Plats.

EXHIBIT "C"

Description of Common Property

SEE ATTACHED DESCRIPTION OF COMMON PROPERTY

EXHIBIT "D"

[Space Above Reserved for Recording Data]

STATE OF GEORGIA Index in Grantor Index Owner's Name(s): _____
County of Gwinnett
Index in Grantor and Grantee Index Also Under:
The Moorings Homeowners Association, Inc.

Cross Reference to Owner's Deed: Deed Book _____
Page _____

Cross Reference to The Moorings Subdivision Declaration: Deed Book _____
Page _____

**CONSENT FORM TO THE DECLARATION OF PROTECTIVE COVENANTS
AND PERMANENT MEMBERSHIP FOR THE MOORINGS SUBDIVISION
AND
OWNER SUBMISSION TO MEMBERSHIP IN
THE MOORINGS HOMEOWNERS ASSOCIATION, INC.**

[For Subsequent Additions and Conversions]

WHEREAS, the undersigned owner(s) (hereinafter referred to as "Owner") is/are the record owner and holder of title in fee simple to a Lot within the Moorings Subdivision, located at the address described below in Land Lot ____, 6th District, Gwinnett County, Georgia, more particularly shown as Lot ____, Unit ____ on the plat of survey for The Moorings Subdivision recorded in Plat Book ____, Page ____, Gwinnett County, Georgia records (hereinafter "Owner's Property"), such plat being incorporated herein by this reference; and

WHEREAS, Owner desires to submit and/or convert Owner's Property to the Declaration of Protective Covenants and Permanent Membership for the Moorings Subdivision as recorded at Deed Book ____, Page ____, et seq., aforesaid records ("Declaration"), as may be amended, as a Permanent Member of the Association, as defined in the Declaration;

NOW, THEREFORE, Owner does hereby consent, on behalf of Owner, Owner's successors, successors-in-title, heirs, and assigns, that from and after the date of this Consent,

Owner's Property shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration, as such Member of the Association, all of which shall run with the title to Owner's Property and shall be binding upon all persons having any right, title, or interest in Owner's Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Owner understands and acknowledges that, by submitting Owner's Property to such Membership in the Association, Owner is hereby subjecting Owner's Property to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with the Declaration.

Signed, sealed and delivered
this ____ day of _____, 20__

Print or Type Full Name of Owner(s)

Signature of Owner

Witness

Signature of Co-Owner

Notary Public

Street Address

[Notary Seal]

THIS PORTION TO BE COMPLETED BY ASSOCIATION UPON RETURN FROM OWNERS:

Approved by:

Signed, sealed, and delivered
this ____ day of _____, 20__.

**THE MOORINGS HOMEOWNERS
ASSOCIATION, INC.**

Witness

By: _____, Seal
President

Notary Public

[CORPORATE SEAL]

EXHIBIT E – SPECIFIC COVENANTS & USE RESTRICTIONS

WHEREAS, Association and each Lot Owner/Member that so elects desires to subject the Lots to the covenants, restrictions and agreements hereinafter set forth, each of which is for the protection of the Property and for the benefit of all subsequent owners of any part of the Property, each of which shall inure to the benefit of and run with the property in perpetuity as provided by the Act.

1. No Lot shall be used except for residential purposes and no Lot shall be subdivided. No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single family dwelling not to exceed two and one-half (2.5) stories in height and a private carport or garage for not more than three (3) cars. No temporary house, shack, trailer, or tent to be used for residential purposes shall be erected on any Lot.
2. No Lot shall be maintained as a dumping ground for rubbish, trash or garbage. **All trash and garbage containers must be removed from the curb the same day after pickup, and shall be kept out of view from the street.** No Lot shall be used for keeping or breeding of livestock animals or poultry of any kinds, except that household pets may be kept provided they are not kept for breeding or maintained for any commercial purpose. No noxious or offensive activities shall be carried on upon any Lot and nothing shall be done thereon which may be or may become any annoyance to the neighborhood. Campers and/or motor homes may not be parked on any Lot for more than ten (10) days in any given calendar year. No commercial truck or tractor trailer parking shall be allowed. No inoperative cars, trucks, motor homes or other types of vehicles shall be kept or stored on any Lot unless fully contained within an enclosed garage.

No vehicles shall be parked on the lawn of any Lot, consistent with Gwinnett County's Zoning Regulations that state: "Parking in front yards in residential areas is allowed only on surfaced driveways or inside carports and garages. There shall be no major repair performed on any motor vehicle on any Lot in the Moorings Subdivision unless the repair takes place in a fully enclosed garage. Violation of this covenant shall subject the Lot owner to the penalty of \$50.00 per day (paid to the Association) for each day during which such violation continues.

3. Dwelling buildings erected on any Lot shall each have not less than 2,500 square feet of heated, habitable floor space.
4. No building (including without limitation storage sheds, garages, outbuildings and swimming pools), fence or wall shall be erected, placed, altered or permitted to remain on any Lot until the clearing plans or the building plans, elevations, specifications or exterior finishes (including colors and materials) have been submitted to and approved in writing by Association, its successors or assignees, as to conformity and harmony of external finishes, color, design and general quality with the existing standards of the Subdivision, and as to the location of the building with respect to topography and finished ground

elevations, which approval shall be in the sole discretion of Association. All fencing shall be subject to approval by Association and no type of chain link fencing shall be allowed.

. All exterior redecoration shall also be subject to approval by Association. If Association fails to approve or disapprove such plans and specifications within thirty (30) days after same have been submitted to it, Association shall be deemed to have approved said plans and specifications. After the final plans and specifications have been approved by Association, no material changes may be made in said plans and specifications without the written consent of Association.

5. Easements have been reserved to the Declarant, its successors or assigns, for installation and maintenance of utilities, drainage facilities, storm sewers, and sanitary sewers over the rear ten (10) feet of each lot, and five (5) feet along each side line; with further easements reserved to cut or fill at a 3-in-1 slope along (or to install sidewalks within 15 feet of) the boundaries of all public streets or roads built on the property. Drainage flow shall not be obstructed nor be diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as many hereafter appear on any plat of record of the Property of any portion thereof.
6. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on a lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.
Minimum distance from roofline to roofline shall not be less than ten (10) feet.
7. **Both entrances to the Moorings Subdivision shall be equally well maintained.** The grounds (including that land between the Lot line and the pavement of the public road) of each Lot (whether vacant or occupied) shall be maintained in a neat and attractive condition. Grass on any Lot shall not be allowed to exceed six (6) inches in height. Upon the failure of any Owner to maintain his Lot (whether vacant or occupied) in a neat attractive condition, Association or the authorized agents or successors and assigns, may, after ten (10) days' notice to the Owner, enter upon such Lot and have the grass, woods and other vegetation cut when, and as often as, the same is necessary in its judgment, and may have dead trees, and shrubs and other plants removed therefrom. Such liability for amounts expended for such cutting, clearing and maintenance shall be a permanent charge and lien upon such Lot **(with proper notice of such charges given to Owner in the form of a registered letter)**. All costs incurred by Association on behalf of such Owner should be reasonable but such determination will be at the sole discretion of Association. Although notice given as hereinabove provided shall be sufficient to give Association or its designated

committee, or its successors and assigns, the right to enter upon any such Lot and perform work required, entry for the purpose of performing the work required shall be only between the hours of 7:00 AM and 6:00 PM on any day except Sunday. In lieu of performing the Work, the Association may charge the Owner \$25.00 per day as a fine for failing to maintain the landscaping. Notice of such fines shall be provided to the Owner as stated in this paragraph.

All storm or fire damage to any Lot or home must be removed and/or repaired within six (6) months of the date the damage occurred.

Lots and open porches are not to be used for storage and shall be kept neat and free of the accumulation of items such as, but not limited to, lumber, tools, automobile parts, salvage material, etc.

8. No advertising signs, billboards, or high and unsightly structures shall be erected on any Lot or displayed to the public on any Lot, except that a sign (not to exceed 2' x 2') may be used to advertise the property for sale or rent.
9. If anyone bound to observe and comply with the Declaration shall violate or attempt to violate any covenant while the same is in force, the Association or any aggrieved owner of a Lot in the Subdivision may prosecute any proceeding at law, or in equity, against such violator to prevent or to recover damages for such attempt or violation. **The prevailing party shall be entitled to recover, in addition to costs and disbursements otherwise allowed by law, its/his/her reasonable attorney's fees in the trial court and on any subsequent appeal. In addition, the Association may levy daily fines for violations as provided in this Declaration.**
10. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions that shall remain in full force and effect.
11. The failure of Association to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, provisions, or agreements herein contained shall not be construed as a waiver or a relinquishment in the future of the enforcement of any such term, covenant, condition, provision or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision or agreement shall not be deemed a waiver of such breach, and no waiver by Association of any term, covenant, condition, provision or agreement shall be deemed to have been made unless expressed in writing and signed by Association.
12. Zoning regulations applicable to property subject to this Declaration shall be observed. All building codes, zoning ordinances and regulations of governmental entities must be observed. In the event of any conflict between any provision or such zoning restrictions

and the restrictions of this Declaration, the more restrictive regulation or covenant will apply.

13. In the event that any one or more of the foregoing Covenants, Conditions, or Restrictions shall be adjudged, for any reason, by a court of competent jurisdiction, to be null and void, such judgment shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the Covenants, Conditions and Restrictions not so adjudged to be void, but all of the remaining Covenants, Conditions, Reservations and Restrictions not so expressly held to be void shall continue unimpaired and in full force and effect. In the event this Declaration is declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then, in that event, such term shall be reduced to a period of time which shall not violate the rule against perpetuities or any other law of the State of Georgia relating to the duration of such Restriction.
14. Satellite Television Antennas. Satellite television antennas on any Lot shall be placed on the rear of any Lot so as not to be visible from the street. If reception is not possible in light of this restriction, the Owner may notify the Board and a variance may be granted.
15. No above ground swimming pools are allowed and no window mounted air conditioning units are allowed if they are visible from the street.