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Cherokee County, Georgia
Dorough & Dorough, LLC (404) 687-9977

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CROSS REFERENCE: Deed Book: 14198
Page: 2300

**FIRST AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR
HERITAGE AT TOWNE LAKE**

THIS FIRST AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR HERITAGE AT TOWNE LAKE (hereinafter referred to as "First Amendment") is made this 10th day of January, 2018 by **HERITAGE AT TOWNE LAKE HOMEOWNERS ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter referred to as "Association"), **BASCOMB CARMEL LLC**, a Georgia limited liability company (hereinafter referred to as the "Declarant"), and **WEEKLEY HOMES, LLC**, a Delaware limited liability company (hereinafter referred to as "DWH").

WITNESSETH

WHEREAS, Declarant executed that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Heritage at Towne Lake, which was recorded August 1, 2017 in Deed Book 14198, Page 2300, *et seq.*, Cherokee County, Georgia land records (hereinafter as supplemented and/or amended from time to time referred to as the "Declaration"); and

WHEREAS, the Association is a nonprofit corporation organized under the Georgia Nonprofit Corporation Code to be the Association named in the Declaration to have the power and authority set forth therein; and

WHEREAS, the Association and the members thereof desire to qualify the Community for the "housing for older persons" exemption pursuant to the Housing for Older Persons Act of 1996 contained in the Fair Housing Act (42 U.S.C. § 3607, *et seq.*); and

THIS INSTRUMENT ESTABLISHES RESTRICTIONS ON THE OCCUPANCY OF LOTS AND A 55 YEAR OR OLDER HOUSING COMMUNITY PURSUANT TO THE HOUSING FOR OLDER PERSONS ACT ("HOPA") AS HEREIN PROVIDED.

WHEREAS, Article 11, Section 11.7(c) of the Declaration provides that the Declaration may be amended upon the affirmative vote or written consent or any combination thereof of Owners of at least two-thirds (2/3) of the Lots and the consent of the Declarant; and

WHEREAS, Article 11, Section 11.7(d) of the Declaration provides that until the rights of DWH terminate as provided in the Declaration, any amendment to the Declaration shall require the prior written approval of DWH; and

WHEREAS, Declarant and DWH collectively own all of the Lots in the Community and desire to amend the Declaration as set forth herein, as evidenced by the signatures attached hereto and by this reference incorporated herein;

NOW THEREFORE, the undersigned hereby adopt this First Amendment to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Heritage at Towne Lake, hereby declaring that all of the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, amended as follows:

1.

The Declaration is hereby amended by adding to the end of the Declaration a new Article 13, entitled "Age Restricted Community", to read as follows:

Article 13
Age Restricted Community

13.1. General. In order to protect the equity of the individual Lot Owners and to carry out the purpose for which the Community was formed by preserving the intent that the Lots within the Community be used for the housing of persons fifty-five (55) years of age or older, and to comply with the exemption requirements for an age restricted community pursuant to the Housing for Older Persons Act of 1995 contained in the Fair Housing Act (42 U.S.C. § 3607, *et seq.*) (hereinafter referred to as "HOPA"), occupancy of Lots shall be governed by the restrictions imposed by this Article. The Board of Directors shall have authority to make and enforce reasonable rules and regulations in order to enforce this Article. The Association, acting through its Board, shall have the power to amend this Article, without the consent of the members or any Person, to make this Article consistent with HOPA, as it may be amended and/or supplemented from time to time, the regulations adopted pursuant thereto, and any judicial decisions arising thereunder or otherwise relating thereto, in order to maintain the intent and enforceability of this Article.

13.2. Restrictions on Occupancy.

(a) Each and every occupied Lot shall be occupied by at least one (1) adult who is fifty-five (55) years of age or older ("Qualifying Occupant"). In addition to the foregoing, no Person under the age of eighteen (18) shall occupy a Lot in the Community for a total of more than ninety (90) days, consecutive or non-consecutive, in any calendar year.

(b) In the event of the death of a person who was the sole Qualifying Occupant of a Lot, or the illness or disability of the sole Qualifying Occupant requiring their transfer to a health care facility, nursing home, or assisted living, personal care, or similar facility providing assistance with daily personal needs and/or health care, the spouse of such Qualifying Occupant and any other person then occupying the Lot in compliance with this Section 13.2 may continue to occupy the Lot, provided that they notify the Board in writing within ten (10) days after the death or relocation of the Qualifying Occupant and such continued occupancy would not cause the Community to be in noncompliance with the provisions of HOPA and the regulations adopted thereunder as of the date of the Board's receipt of such notice. For purposes of this Article, an Occupant shall not be considered a "permanent occupant" unless such Occupant considers the Lot to be such Occupant's legal residence and actually resides in the Lot for at least six (6) months during every calendar year.

(c) Nothing in this Article is intended to restrict the ownership of or transfer of title to any Lot; provided, no Owner may occupy the Lot unless the requirements of this Article are met nor shall any Owner permit occupancy of the Lot in violation of this Article. Lot Owners shall be responsible for including the statement that the Lots within the Community are intended for the housing of persons fifty-five (55) years of age or older, as provided in this Article, in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Lot, which agreements or contracts shall be in writing and signed by the tenant or purchaser, as applicable, and for clearly disclosing such intent to any prospective tenant, purchaser or other potential Occupant of the Lot. Every lease of a Lot shall provide that the failure to comply with the requirements and restrictions of this Article shall constitute a default under the lease.

(d) Any Owner may request in writing that the Board of Directors make an exception to the requirements of this Article with respect to such Owner's Lot. The Board of Directors may, but shall not be obligated to, grant exceptions in its sole discretion, provided that the requirements for exemption pursuant to HOPA would still be met. Further, the Declarant, with the consent of DWH, and DWH, with the consent of Declarant, may grant exceptions in their sole discretion, provided that the requirements for exemption pursuant to HOPA would still be met. Any such exception shall be made only in a writing signed by the Board, the Declarant, or DWH, as applicable, and shall identify the specific individuals and Lot which they are authorized to occupy, and shall apply only to occupancy by the specific individuals so named.

13.3. Change in Occupancy; Notification. In the event of any change in occupancy of any Lot resulting from a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Lot shall immediately notify the Board in writing and provide to the Board the names and ages of all current Occupants of the Lot and such other information as the Board may reasonably require to verify the age of each Occupant. In the event that an Owner fails to notify the Board and provide all required information within ten (10) days after a change in occupancy occurs, the Association shall be authorized to levy fines and other sanctions against the Owner and the Lot for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the Occupant(s) continue to meet the requirements of this

Article, in addition to all other remedies available to the Association under this Declaration and Georgia law.

13.4. Monitoring Compliance; Appointment of Attorney-in-Fact.

(a) The Association shall be responsible for maintaining age records on all Occupants of Lots. The Board shall adopt reasonable policies, procedures and rules to monitor and maintain compliance with this Article, including policies regarding visitors, updating of age records, the granting of exemptions, if any, and enforcement. The Association shall periodically distribute such policies, procedures and rules to the Owners and make copies available to Owners, their Occupants, tenants and Mortgagees upon reasonable request.

(b) The Association shall have the power and authority to enforce this Article in any legal manner available, as the Board deems appropriate, including, without limitation, conducting a census of the Occupants of Lots, requiring copies of birth certificates, drivers licenses or other proof of age for each Occupant of the Lot to be provided to the Board on a periodic basis, and taking action to evict the Occupants of any Lot which does not comply with the requirements and restrictions of this Article. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT OR OTHERWISE REMOVE THE OCCUPANTS OF SUCH OWNER'S LOT AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS ARTICLE. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of such Owner's Lot which in the judgment of the Board are reasonably necessary to monitor compliance with this Article.

(c) Each Owner shall be responsible for ensuring compliance of the Owner's Lot with the requirements and restrictions of this Article and the rules of the Association adopted hereunder by the Owner and by the Owner's tenants and other Occupant(s) of such Lot. EACH OWNER, BY ACCEPTANCE OF TITLE TO A LOT, AGREES TO INDEMNIFY, DEFEND AND HOLD THE DECLARANT, THE ASSOCIATION AND THEIR RESPECTIVE OFFICERS, AGENTS, REPRESENTATIVES, DIRECTORS OR EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, AND CAUSES OF ACTION WHICH MAY ARISE FROM THE FAILURE OF SUCH OWNER'S LOT TO SO COMPLY.

2.

Unless otherwise defined herein, the words used in this First Amendment shall have the same meaning as set forth in the Declaration.

3.

This First Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Cherokee County, Georgia and shall be enforceable against all Owners of Lots subject to the Declaration.

4.

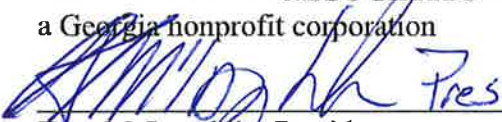
Except as herein modified, the Declaration shall remain in full force and effect.

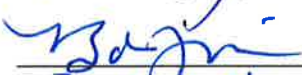
[SIGNATURES BEGIN ON FOLLOWING PAGE]

A handwritten signature in blue ink, consisting of several stylized, overlapping loops and lines, positioned to the right of the text "[SIGNATURES BEGIN ON FOLLOWING PAGE]".

IN WITNESS WHEREOF, the Association has caused this First Amendment to be executed under seal the day and year first above written.

ASSOCIATION: **HERITAGE AT TOWNE LAKE HOMEOWNERS ASSOCIATION, INC.**,
a Georgia nonprofit corporation

By: 
Tom McLaughlin, President

Attest: 
Print Name: Brandon Wilt
Brandon Wilt, Secretary

[CORPORATE SEAL]



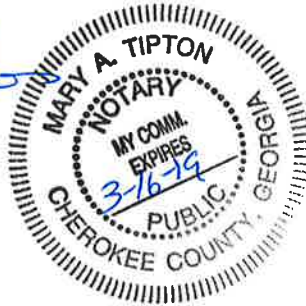
Signed, sealed, and delivered
in the presence of:


WITNESS


NOTARY PUBLIC

My Commission Expires: 3-16-19

[AFFIX NOTARY SEAL]

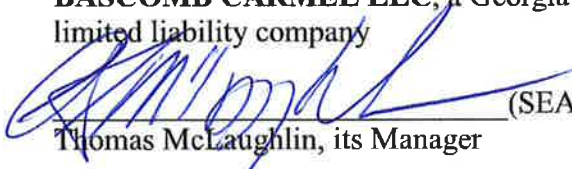


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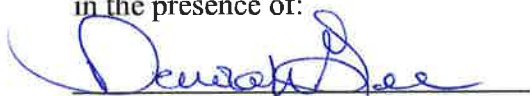
[SIGNATURES CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned, as Declarant and as Owner of Lots 1 – 5, 9 – 37, 39 – 44, 46, 47, 51, 52, 58 – 64, and 68 – 87 located in the Community, hereby consents to, approves and executes this First Amendment under seal, this 10TH day of January, 2018.

DECLARANT: **BASCOMB CARMEL LLC**, a Georgia limited liability company

By:  (SEAL)
Thomas McLaughlin, its Manager

Signed, sealed, and delivered
in the presence of:



WITNESS


NOTARY PUBLIC

My Commission Expires:

[AFFIX NOTARY SEAL]



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned, as DWH and as Owner of Lots 6 – 8, 38, 45, 48 – 50, 53 – 57, and 65 – 67 located in the Community, hereby consents to, approves and executes this First Amendment under seal, this 12th day of January, 2018.

DWH: **WEEKLEY HOMES, LLC**, a Delaware limited liability company

By: *Eric E Price* (SEAL)
Name: *Eric E Price*
Title: *Division President*

Signed, sealed, and delivered in the presence of:

[Signature]
WITNESS

Heather M. Moran
NOTARY PUBLIC

My Commission Expires: 03/30/2021

[AFFIX NOTARY SEAL]

