

RETURN TO:
LANE & KARLO, LLP
1827 POWERS FERRY ROAD
BUILDING 5
ATLANTA, GEORGIA 30339

Upon recording return to:
David N. Dorough, Jr.
Dorough & Dorough, LLC
Attorneys at Law
160 Clairemont Avenue
Suite 650
Decatur, Georgia 30030
(404) 687-9977

**DECLARATION OF PROTECTIVE COVENANTS, EASEMENTS AND COST
SHARING FOR
866 & 870 MONROE DRIVE**

THIS DECLARATION OF PROTECTIVE COVENANTS, EASEMENTS AND COST SHARING (hereinafter referred to as the "Declaration"), is made and entered into on the 31st day of January, 2012, by **PLUMCREEK PROPERTIES, LLC**, a Utah limited liability company ("Declarant")

W I T N E S S E T H

WHEREAS, Declarant is the owner of certain real property located in Land Lot 48 of the 14th District of Fulton County, Georgia consisting of two zero lot line residential lots having addresses of 866 Monroe Drive and 870 Monroe Drive, as more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein); and

WHEREAS, each residential Lot is improved with a single-family attached dwelling. (hereinafter referred to individually as the "866 Townhouse" and the "870 Townhouse" and collectively as the "Townhouses"); and

WHEREAS, the Townhouses have a common roof and are served by a common private drive, and certain common utilities; and

WHEREAS, Declarant desires to create easements, establish use restrictions, and provide for the continued joint maintenance and sharing of costs for the Townhouses;

NOW, THEREFORE, the Declarant hereby declares that the real property described in Exhibit "A" attached hereto and by this reference incorporated herein is hereby subjected to the provisions of this Declaration, which shall be binding on all persons having any right, title or interest in all or any portion of such property, their respective heirs, legal representatives,

successors, successors-in-title and assigns and shall inure to the benefit of each owner of all or any portion thereof.

ARTICLE I
Definitions

1.2 "Owner" means the record owner, whether one or more persons, of the fee simple title to any Townhouse Lot.

1.1 "Townhouse Lot" shall mean either of the 866 Townhouse Lot or the 870 Townhouse Lot as depicted on the zero lot line plat referenced in Exhibit "A" hereof. Each dwelling on a Townhouse Lot is attached by a party wall(s) to the other dwelling, the boundary between the Townhouse Lots shall be a line running along the center of the party wall separating the Townhouse Lots as shown on the plat; in the event of a discrepancy between the location of the party wall as constructed and the boundary line shown on said plat, the center of the party wall as constructed shall be deemed to be the boundary line. The ownership of each Townhouse Lot shall include the exclusive right to use and possession of any and all portions of the heating and air conditioning Townhouse Lots (including, but not limited to, compressors, conduits, wires and pipes).which are appurtenant to and serve each Townhouse Lot as well as all utility lines, wires, conduits, pipes and the like which serve only that Townhouse Lot, whether or not located on the Townhouse Lot so served.

Article II
Maintenance; Common Property; Services

2.1 Joint Maintenance Responsibility. The Owners shall jointly maintain and keep in good repair the following: (a) landscaping improvements to the extent provided in Section 2.4 hereof; (d) any irrigation system and the expenses for water and electricity provided to the irrigation system; (e) the outdoor light serving both Townhouse Lots, including the expenses for electricity provided to same; (f) the private drive serving both Townhouse Lots; (h) storm water detention/retention ponds and storm water drainage facilities, serving the Townhouse Lots, and all pipes and channels built to convey storm water to the storm water drainage facility; (i) perimeter fencing; (j) all water and sanitary sewer pipes or facilities that serve both Townhouse Lots; and (k) the common roof, downspouts and gutters.

2.2 Owner's Maintenance Responsibility. Except for maintenance performed on a Townhouse Lot pursuant to Sections 2.1 and 2.4 hereof, all maintenance of the Townhouse Lot and all structures and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Townhouse Lot in a manner consistent with this Declaration. Such maintenance obligation shall include, without limitation, the following: prompt removal of all litter, trash, refuse, and waste; keeping improvements, and exterior lighting in good repair and working order; complying with all governmental health and police requirements; and repair of exterior damage to improvements. In addition, Owners shall maintain any pipe(s), wire(s) and conduit(s) which serve only the Townhouse Lot, whether said pipe(s), wire(s) or conduit(s) are located within or outside of a Townhouse Lot's boundaries.

2.3 Party Wall. The party wall between the Townhouse Lots built as part of the original construction of the Townhouse Lots shall serve and separate the two (2) adjoining Townhouse Lots and shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners in equal proportions. If the party wall is destroyed or damaged by fire or other casualty, then either Owner may restore it, and the other Owner shall contribute one-half of the cost of restoration, without prejudice, however, to the right of any Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

2.4 Yard Maintenance As provided in Section 2.1 above, the Owners shall jointly maintain and keep in good repair the landscaping improvements located on the exterior portions of the Townhouse Lots. Such maintenance shall include, but not be limited to, lawn mowing on a regular basis; tree and shrub pruning; watering landscaped areas; keeping lawn and garden areas alive, free of weeds and attractive.

2.5 Individual Insurance. By virtue of taking title to a Townhouse Lot, each Owner covenants and agrees with the other Owner that each Owner shall carry all-risk casualty insurance on the Townhouse Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Townhouse Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available and shall be 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. The policies required hereunder shall be in effect at all times. In the event that any Owner of a Townhouse Lot fails to obtain insurance as required by this Declaration, the other Owner may, but shall have no obligation to, purchase such insurance on behalf of the defaulting Lot Owner and be reimbursed by the defaulting Lot Owner in the manner set forth in Section 4.3 below.

ARTICLE III Easements

3.1 Easement for Ingress and Egress. Declarant hereby establishes a perpetual, non-exclusive joint and reciprocal right-of-way easement in perpetuity for vehicular and pedestrian access, ingress, egress over and across the private drive as more particularly described on the recorded plat referenced in Exhibit "A" attached hereto. The easement herein granted shall be interpreted to permit joint usage of the private drive by all of the Owners, their legal representatives, successors and assigns, guests, invitees and tenants. The private drive is intended to be used as a drive for vehicular and pedestrian traffic and shall be properly maintained in good condition for this purpose. The Owners will exercise reasonable care in their use of the private drive so as not to cause more than normal wear and tear on the drive or other easement improvements. Any damage to the private drive caused by an Owner or his or her guests or invitees shall promptly be repaired by that Owner at his or her sole expense. If an Owner fails to repair any damage to the private drive caused by him or her or his or her guests or invitees within ten (10) days of receipt of written notice from the other Owner, the other Owner

may do so, and the cost of doing so will be the sole responsibility of the Owner responsible for the damage, to be billed, paid and collected as set forth below

3.2 Utility Easement. Declarant hereby establishes a non-exclusive joint and reciprocal easement in perpetuity over and across the Townhouse Lots for the installation of and use and enjoyment of the underground pipes, lines and appurtenant facilities for water, telephone, cable, electricity and gas in order to provide all such services to the Townhouse Lots. The location of said utility lines and services shall be as existing on the date of recording of this Declaration. Each Townhouse Lot shall have the full and unrestricted right to cause the maintenance, repair and replacement of said utility lines and services as may be necessary to so insure the proper use, enjoyment and benefit thereof by such party.

3.3 Easement for Joint Maintenance. Declarant hereby establishes a perpetual easement across the Townhouse Lots as may be reasonably necessary for the joint maintenance required hereunder.

3.4 Easement for Owner Maintenance. Declarant hereby establishes reciprocal appurtenant easements between the Townhouse Lots for the purpose of maintaining or repairing the improvements located on each Townhouse Lot which easement shall extend to a distance of five (5) feet as measured from any point on the common boundary between the Townhouse Lots. The easement shall be used only for such period of time as is reasonably necessary in order to complete the maintenance or repair. The Owner exercising this easement right shall be liable for the prompt repair of any damage to the Townhouse Lot over which this easement is exercised which arises out of such maintenance or repair work.

3.5 Easement for Stormwater Drainage. Declarant hereby establishes a blanket easement across the Townhouse Lots for maintaining satisfactory stormwater drainage; provided, however, such easement area shall not include any portion of a Townhouse Lot within the outer perimeter of the dwelling structure.

ARTICLE IV

Costs of Maintenance; Capital Improvements

4.1 Annual Budget. It shall be the duty of the Owners to prepare and approve a budget covering the estimated costs of joint maintenance and operation of the Townhouse Lots during the coming year. Notwithstanding the foregoing, however, in the event the Owners do not agree on a budget then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the prior year shall continue. Budgeted costs shall be allocated equally and shall be paid monthly unless otherwise agreed by the Owners. The budget may include, without limitation, maintenance, charges for utilities, landscape maintenance, expenses and liabilities incurred as provided herein. The Owners may, but shall not be required to, establish a joint checking account for the deposit and payment of budgeted expenses. If at any time there is only one Owner-occupant of a Townhouse Lot, that Owner will have control of the checking account and pay all invoices and generally oversee the joint maintenance activities. When both Townhouse Lots are Owner-occupied, the checking account and related duties will be

transferred each January 1 to the other Owner.

4.2 Meetings. Regular meetings of the Owners may be held at such time and place as shall be determined from time to time by the Owners, provided that at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings. Owners shall be entitled to one vote for each Townhouse Lot owned. When more than one person holds an ownership interest in a Townhouse Lot, the vote for such Townhouse Lot shall be exercised as those Owners themselves determine. The vote attributable to a Townhouse Lot shall be suspended in the event more than one person seeks to exercise it or in the event that an Owner is in monetary default after notice and failure to cure as provided in Section 4.3 below. All matters must be approved by both Owners, unless an Owner's right to vote has been suspended.

4.3 Default by an Owner. If an Owner fails to pay his or her respective share of costs incurred within thirty (30) days after the date due, the amount, together with interest at eighteen percent (18%) per annum, plus any attorney fees necessary to effect collection, shall automatically become a continuing lien against the Townhouse Lot of the defaulting Owner in favor of the other Owner. Each Owner's obligation to pay his or her share of the costs will be an enforceable personal obligation of the Owner. Any such cost incurred in connection with this Declaration shall also be the personal obligation of the person who was the Owner of the Townhouse Lot at the time the cost came due and each grantee of an Owner shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance.

The Owner who has not been reimbursed may record notice of a claim of lien against the Townhouse Lot owned by the defaulting Owner and thereafter pursue a judicial action to foreclose on the lien, subject only to any institutional or purchase money first mortgage. The lien authorized herein is hereby made subordinate to the lien of any first priority deed to secure debt placed on a Townhouse Lot if, but only if, all costs and charges with respect to such Townhouse Lot authorized herein having a due date on or prior to the date of the first priority deed to secure debt have been paid. Proceeds received at such sale shall be distributed first to pay the lien being foreclosed upon, plus all costs and expenses, interest, and attorneys' fees, and any surplus shall be distributed in accordance with the priorities established by applicable law. The reimbursed Owner may, in addition to or instead of foreclosure, obtain a personal judgment against the defaulting Owner.

Provided an Owner is current in his or her obligations to the other Owner, an Owner will be immediately released from all personal liability for costs associated with the repair and maintenance of or capital improvements to the Townhouse Lot upon the sale or other conveyance of one hundred percent (100%) of his or her interests in the Townhouse Lot.

ARTICLE V Use Restrictions and Rules

5.1 Residential Use. Each Townhouse Lot shall be used for residential purposes exclusively. Leasing of a Townhouse Lot for residential occupancy shall not be considered a

business or business activity. No trade or business of any kind may be conducted in or from a Townhouse Lot, except that the Owner may conduct business activities within the house so long as the business activity: (a) does not otherwise violate the provisions of this Declaration; (b) is not apparent from the exterior of the Townhouse Lot; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Townhouse Lot; (e) is consistent with the residential character of the Townhouse Lots; (f) does not constitute a nuisance or a hazardous or offensive use; and (g) does not threaten the security or safety of other residents. The terms "business" and "trade" as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) the activity is engaged in full or part-time; (y) the activity is intended to or does generate a profit; or (z) a license is required for the activity.

5.2 Vehicles; Parking. Vehicles shall be parked only in appropriate parking areas serving the Townhouse Lot or other designated areas, if any. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, golf carts, trucks, campers, buses, vans and automobiles. The term "commercial vehicles" as used herein, shall include, without limitation, any vehicle which bears any indicia of commercial use, including, but not limited to, writing, logos, ladders or vehicles which would not be primarily used for the transportation of passengers. The term "parking areas" shall refer to the number of garage parking spaces and if and only if, the Owner has more vehicles than the number of garage parking spaces, those excess vehicles which are an Owner's primary means of transportation on a regular basis may be parked on the driveway on the Townhouse Lot; provided that such vehicles do not block or interfere with the other Owner's access to the parking areas or garage serving the other Townhouse Lot. No vehicle may be left upon any portion of a Townhouse Lot, except in a garage, if it is not licensed or if it is in a condition such that it is incapable of being operated upon the public highways. Commercial vehicles shall not be permitted on a Townhouse Lot, except if kept in an enclosed garage; provided however, construction, service, and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a Townhouse Lot. Without the written consent of the other Owner, no eighteen wheel trucks or the cabs of such trucks or trucks with a load capacity in excess of three-quarters of a ton shall be parked, kept or stored within the Townhouse Lots except during the time reasonably necessary to provide service or delivery.

5.3 Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on a Townhouse Lot. No Townhouse Lot shall be used for the storage of anything that will cause such Townhouse Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Townhouse Lots, nor shall anything be done tending to cause embarrassment, discomfort,

annoyance or nuisance to any person using any property within the Townhouse Lots. No plants, animals, device or thing of any sort shall be maintained in the Townhouse Lots whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Townhouse Lots by other Owners. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, sirens, bells, amplifiers or other sound devices, except such devices as may be used exclusively for security purposes, screaming, shouting, excessively loud talking, fighting, raucous behavior, insobriety, playing loud music or television, use of any alarm, equipment or device, mechanical or otherwise which creates or produces excessively loud sounds, vibrations or any other conduct which creates any noxious or offensive odors outside a home shall be permitted, located, used, placed, installed or maintained on any Townhouse Lot, or any portion thereof. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person.

5.4 Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken in any part of the Townhouse Lots.

5.5 Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles and other similar items shall be located or screened so as to be concealed from view from neighboring streets and property. All rubbish, trash and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, debris or other waste matter of any kind may not be burned within Townhouse Lots.

ARTICLE VI Arbitration

6.1 Arbitration. Any dispute as to any part of this Declaration, including, without limitation whether the private drive is being properly maintained, or the proper amount of charges attributable to joint maintenance shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

ARTICLE VII General Provisions

7.1 Duration. The easements, rights, privileges, conditions and restrictions contained in this Declaration shall run with and bind Townhouse Lots, and shall inure to the benefit of and shall be enforceable by any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law; provided, however, if and to the extent that, Georgia law limits the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time, any such provision(s) shall be (a) automatically

extended for successive periods of twenty (20) years (or the maximum period allowed by applicable law, if less), unless a written instrument signed by all of the then Owners has been recorded within the year immediately preceding the beginning of a twenty (20) year renewal period agreeing to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended, renewed, modified or terminated as otherwise provided herein or by applicable law.

7.2 Amendment. This Declaration may be amended only upon the unanimous written approval of all of the Owners, which shall be evidenced by their execution of an amendment. Any amendment to this Declaration shall become effective upon recordation in the public real estate records of Fulton County, Georgia, unless a later effective date is specified therein.

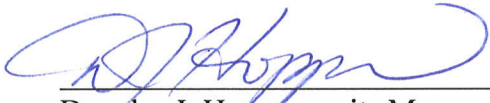
7.3 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

7.4 Notice. Each notice or document (collectively referred to in this Section as "Notice") required or permitted to be given hereunder must comply with the requirements of this Section. Each such Notice shall be in writing and shall be delivered either by personally delivering it (including confirmed facsimile, e-mail, Federal Express or commercial courier service) or by depositing it with the United States Postal Service, certified mail, return receipt requested, with adequate postage prepaid, addressed to the appropriate party (and marked to a particular individual's attention). Such Notice shall be deemed delivered at the time of personal delivery or, if mailed, when it is deposited as provided above, but the time period in which a response to any such Notice must be given or any action taken with respect thereto shall commence to run from the date it is personally delivered or, if mailed, the date of receipt of the Notice by the addressee thereof, as evidenced by the return receipt. Rejection or other refusal by the addressee to accept the Notice shall be deemed to be receipt of the Notice. In addition, the inability of the United States Postal Service to deliver the Notice because of a change of address of the party of which no Notice was given to the other party as provided below shall be deemed to be the receipt of the Notice sent. The address for receipt of Notice may be changed by any party by designating the change of address to the other party in writing. The address for notice of any other Owner shall be the Lot.

[Signatures Begin On Next Page]

IN WITNESS WHEREOF, the Declarant herein hereby executes this instrument under seal, on the date first above written.


DECLARANT: **PLUMCREEK PROPERTIES, LLC**, a
Utah limited liability company

By:  (SEAL)
Name: Douglas J. Hopper, as its Manager

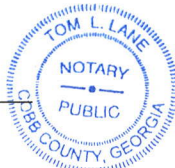
Signed, sealed, and delivered
in the presence of:



WITNESS



NOTARY PUBLIC



My Commission Expires
October 2, 2014

My Commission Expires:

[AFFIX NOTARY SEAL]

CONSENT OF LIEN HOLDER

STATE BANK AND TRUST COMPANY, as Assignee of Federal Deposit Insurance Corporation, as Receiver for Security Bank of North Metro ("Lender"), as holder of: (i) Deed to Secure Debt, from Plumcreek Properties, LLC, dated July 5, 2006, recorded at Deed Book 43053, page 69, *et seq.*, Fulton County, Georgia records, in the original principal amount of \$405,327.50, as modified by that certain Modification Agreement, dated June 6, 2007, recorded at Deed Book 45191, page 153, *et seq.*, aforesaid records, and as further modified by that certain Modification Agreement, dated October 26, 2007, recorded at Deed Book 45960, page 118, *et seq.*, aforesaid records; and (ii) Deed to Secure Debt, from Plumcreek Properties, LLC, dated July 5, 2006, recorded at Deed Book 43053, page 77, *et seq.*, Fulton County, Georgia records, in the original principal amount of \$400,000.00, as modified by that certain Modification Agreement, dated June 7, 2007, recorded at Deed Book 45191, page 150, *et seq.*, aforesaid records and as further modified by that certain Modification Agreement, dated October 26, 2007, recorded at Deed Book 45899, page 585, *et seq.*, aforesaid records (hereinafter collectively referred to as the "Security Deeds"), encumbering the property described in Exhibit "A" hereof, hereby consents to the Declaration of Protective Covenants, Easements and Cost Sharing for 866 & 870 Monroe Drive (the "Declaration") and agrees that any foreclosure of the security title and interest under the Security Deeds or any other instrument that Lender holds shall be subject to the Declaration and any amendments thereto with respect to the property described in Exhibit "A".

This 25th of January, 2012.

LENDER:

STATE BANK AND TRUST COMPANY,
as Assignee as aforesaid

By: _____

Rayburn J Fisher, Jr

Name: _____

RAYBURN J FISHER, JR

Title: _____

EXECUTIVE Vice President

Signed, sealed and delivered
in the presence of:

[Signature]
Witness

[Signature]
Notary Public

My Commission Expires:



[AFFIX BANK SEAL]

EXHIBIT "A"

Property Description

All that tract or parcel of land lying and being in Land Lot 48, or the 14th District, Fulton County, Georgia, being designated Tract 1 (#870) and Tract 2 (#866) and, as shown on Boundary Survey for Plumcreek Properties, LLC, by Davis Engineering & Surveying, dated December 15, 2011, containing the seal of Julian D. Grace, G. R. L. S. No. 2679, recorded in Plat Book 358, Page 89, Fulton County records, as revised and re-recorded in Plat Book 358, Page 134, aforesaid records, reference to said plat of survey and the record thereof being hereby made for a more complete description.