

After recording, please return to:
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CROSS REFERENCE: Deed Book: 39464
Page: 684

**FIRST AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LAUREL POND**

THIS FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LAUREL POND (hereinafter referred to as "First Amendment") is made this 14th day of May, 2012 by **LAUREL POND HOMEOWNERS ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter referred to as "Association").

WITNESSETH

WHEREAS, Whitehall Homes, Inc., a Georgia corporation, as "Declarant," executed that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Laurel Pond, recorded February 24, 2005, at Deed Book 39464, Page 684, *et seq.*, Fulton County, Georgia records (hereinafter as supplemented and/or amended from time to time, 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, acting through its Board of Directors, desires to amend the Declaration to submit the Community to the provisions of the Georgia Property Owners' Association Act; and

WHEREAS, pursuant to Article 11, Section 11.6 of the Declaration, the Board of Directors, with the written consent of the Declarant, and without a vote of the members, may amend the Declaration for the sole purpose of electing to be governed by and complying with the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.*, and

WHEREAS, the rights of the Declarant arising under the Declaration terminated pursuant to that certain Termination of Declarant's Rights Under the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Laurel Pond, recorded April 30, 2010, at Deed Book 48981, Page 592, *et seq.*, aforesaid records;

NOW THEREFORE, the undersigned hereby adopt this First Amendment to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Laurel Pond, 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 deleting Article 4, Section 4.2, entitled "Creation of the Lien and Personal Obligation for Assessments," in its entirety and replacing it with a new Section 4.2 to read as follows:

4.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) general assessments; (b) special assessments; and (c) specific assessments. All sums assessed by the Association against any Lot Owner or Lot, whether for the share of the common expenses pertaining to that Lot, for fines, or otherwise, including without limitation, late charges (in the amount of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the assessment or installment not paid when due, whichever is greater, or such higher amount as may be permitted under the Act), interest (in the amount of ten percent (10%) of the assessment or installment not paid when due, or such higher amount as may be permitted by the Act), costs of collection, reasonable attorneys' fees actually incurred and, if the Board so elects, the fair rental value of the Lot, and all reasonable charges made to any Lot Owner or Lot for materials furnished or services rendered by the Association at the Owner's request to or on behalf of the Lot Owner or Lot, shall, from the time the same become due and payable, be the personal obligation of the Person who was the Owner of the Lot at the time the assessment fell due and constitute a continuing lien in favor of the Association on the Lot prior and superior to all other liens whatsoever except: (x) liens for ad valorem taxes on the Lot; (y) the lien of any first priority Mortgage covering the Lot and the lien of any Mortgage recorded prior to the recording of this Declaration; and (z) the lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot.

Pursuant to the Act, the recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien shall be required. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, 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; provided, however, the liability of a grantee for the unpaid assessments of the grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot or non-use of the Common Property. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments. As provided in O.C.G.A. Section 44-3-232, the obligation for the payment of assessments and fees arising hereunder shall include the costs of collection, including, without limitation, reasonable attorneys' fees actually incurred, and the award of attorneys' fees shall not be construed in accordance with the provisions of O.C.G.A. Section 13-1-11(a)(2).

2.

The Declaration is further amended by deleting Article 4, Section 4.7, entitled "Remedies of the Association," in its entirety and replacing it with a new Section 4.7 to read as follows:

4.7 Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. In addition to the lien rights, the personal obligation of the then Owner to pay such assessments shall remain such Owner's personal obligation and shall also pass to such Owner's successors-in-title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which such Owner was obligated to pay immediately preceding the transfer; and as provided in the Act, such Owner and such successors-in-title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such Owner and such successors-in-title creating any indemnification of the Owner or any relationship of principal and surety as between themselves. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge (not to exceed the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the amount due, or such higher amount as may be authorized by the Act) and interest (at a rate not in excess of ten percent (10%) per annum on the principal amount due, or such higher amount as may be authorized by the Act from time to time). As provided in O.C.G.A. Section 44-3-232, the obligation for the payment of assessments and fees arising hereunder shall also include the costs of collection, including, without limitation, reasonable attorneys' fees actually incurred, and the award of attorneys' fees shall not be construed in accordance with the provisions of O.C.G.A. Section 13-1-11(a)(2).

The Association may cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. In the event that the assessment remains unpaid after sixty (60) days, the Association may institute suit to collect such amounts and/or to foreclose its lien. The Association may file a claim of lien with the Office of the Clerk of Superior Court of Fulton County, Georgia, but no such claim of lien shall be required to establish or perfect the lien for unpaid assessments. Each Owner, by acceptance of a deed, vests in the Association the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the lien. The lien provided for in this Declaration shall be in favor of the Association and shall be for the benefit of all Owners. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The Association, acting through the Board, may also suspend the membership rights of the delinquent Owner, including the right to vote and the right of enjoyment in and to the Common Property. Any such suspension shall not affect such Owner's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent lien on such Lot in favor of the Association.

3.

The Declaration is hereby amended by deleting Article 4, Section 4.11, entitled "Estoppel Letter," in its entirety and replacing it with a new Section 4.1 to read as follows:

4.11 Estoppel Letter. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association or its managing agent setting forth the amount of assessments past due and unpaid, including any late charges, interest, fines, or other charges against that Lot. Such request shall be delivered to the registered office of the Association, and shall state an address to which the statement is to be directed. The Association shall respond in writing within five (5) business days of receipt of the request for a statement and may require the payment of a reasonable fee not to exceed Ten and No/100 Dollars (\$10.00), or such higher amount as may be 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.

4.

The Declaration is hereby amended by adding a new Article 12 to the end of the Declaration, entitled "Submission to Georgia Property Owners' Association Act; Conflict", to read as follows:

Article 12

Submission to Georgia Property Owners' Association Act; Conflict.

The property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, *et seq.* (the "Act"). In the event of a conflict between the provisions of this Declaration and the provisions of the Act then to the extent that the provisions of the Act cannot be waived by agreement, the Act shall control.

5.

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

6.

This First Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Fulton County, Georgia.

7.

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

[SIGNATURES ON FOLLOWING PAGE]

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

By: Lauren Baber (SEAL)
Print Name: Lauren Baber
Director

By: Krysta M. Cannon (SEAL)
Print Name: Krysta M. Cannon
Director

By: Gregory T. Heath (SEAL)
Print Name: Gregory T. Heath
Director

Signed, sealed and delivered
in the presence of:

[Signature]
Witness

Dina L. Curley
Notary Public

[AFFIX NOTARY SEAL]

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