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Return to: Cobb Olson & Andrie, LLC
500 Sugar Mill Road, Suite 160-B
Atlanta, Georgia 30350
Attn: Frank R. Olson

STATE OF GEORGIA
COUNTY OF FULTON

CROSS REFERENCE: Deed Book 25925
Page 311
Deed Book 67516
Page 229

**AMENDMENT TO THE DECLARATION OF EASEMENTS, COVENANTS
CONDITIONS AND RESTRICTIONS OF PRESTWICK**

WHEREAS, on December 22, 1998, Prestwick Homeowners Association, Inc. recorded an Amended and Restated Declaration of Covenants, Conditions, and Restrictions and Easements of Prestwick, at Deed Book 25925, Page 311, et. seq., Fulton County, Georgia, records (“Amended Declaration”); and

WHEREAS, the Association is, pursuant to prior amendment recorded at Deed Book 67516, Page 229, Fulton County Records, governed by, and the property described in the Declaration is submitted to, the Property Owners Association Act, O.C.G.A. § 44-3-220 *et seq.* (the “Act”), such that pursuant to O.C.G.A. 44-3-234 of the Act, the provisions of O.C.G.A. §§ 44-5-60(b) and (d)(1), (2), and (4) do not apply to the Association, the Declaration, or this Amendment; and

WHEREAS, pursuant to Article 13, Section (b) of the Declaration, as amended, and the Act, the Declaration may be amended by the affirmative vote, written consent, agreement, or any combination thereof of Owners to which three-fourths (3/4) of the eligible votes in the Association pertain; and

WHEREAS, as evidenced by the sworn statement of the President and Secretary of the Association appended to this Amendment, at least three-fourths (3/4) of the eligible votes in the Association have approved this Amendment by affirmative votes or by completing written consent



ballot forms, each and all which are hereby incorporated into this Amendment by this reference and which are on file with the Secretary of the Association;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article 9(b) of the Declaration is hereby amended to read as follows:

(b) Leasing. In order to protect the equity of the individual Owners within the Prestwick community, to carry out the purpose for which the community was formed by preserving the character of the community as a residential property of predominantly owner-occupied homes, to prevent the community from assuming the character of a renter-occupied complex, and to comply with any eligibility criteria for mortgages, including mortgages on the secondary mortgage market, insofar as any such criteria provide that the community be substantially owner-occupied, leasing of Lots shall be governed by the restrictions imposed by this Article.

(1) General Prohibition. Except as specifically provided for herein, the leasing of Lots is prohibited.

(2) Definition. "Leasing," for purposes of the Declaration, is defined as the regular, exclusive occupancy of a Lot by any person or persons other than the Owner; provided, however, leasing shall not include the exclusive occupancy of a Lot by the spouse, child or parent of an Owner. Additionally, if an owner of a Lot is a corporation, partnership, trust, or other legal entity not being a natural person, the owner entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the Lot at commencement of the lease. The designated person(s) to occupy the Lot may not be changed more frequently than once every twelve (12) months without the express written consent of the Board.

(3) Leasing Permits Generally. Any Owner who desires to lease such Owner's Lot may do so only if the Owner has applied for and received from the Board of Directors either a "Leasing Permit" or a "Hardship Leasing Permit." Such a permit, upon its issuance, will allow an Owner to lease his or her Lot provided that such leasing is in strict accordance with the terms of the permit, this Article, and any rules and regulations concerning leasing adopted by the Board of Directors. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Article, and the authority to make and enforce reasonable rules and regulations concerning leasing, including the right to impose fines constituting a lien upon the Lot



being leased for any violations thereof. All permits shall be valid only as to a specific Owner and Lot and shall not be transferable between either Lots or Owners.

Lots may be leased only in their entirety; no rooms or fractions of Lots may be leased; and no transient, vacation, VRBO, HomeAway, AirBNB, Vacasa, or any such similar type of temporary, hotel-type, or vacation-type of leasing of Lots shall be allowed.

All leases shall be in writing. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year. The Owner must provide the Lessee with copies of the Declaration, By-Laws, and the Rules and Regulations at the commencement of the lease agreement term.

(4) Leasing Permit Cap, Fee, and Expiration. An Owner's request for a Leasing Permit shall be approved if: (1) current, outstanding Leasing Permits have not already been issued for more than **Six (6) Lots** of the total number of Lots in the Prestwick community (the "Leasing Permit Cap"); (2) said Owner is current on all his or her payment obligations to the Association; (3) said Owner has not had a Leasing Permit or Hardship Leasing Permit revoked; (4) said Owner is not offering a lease agreement to any person who, in the sole discretion of the Board of Directors, has demonstrated either a history of disruptive behavior at the Association or who has demonstrated an attitude of disregard for the Association's rules or the rights or property of others, as evidenced by, among other things, violations of the Declaration, By-Laws, or Rules and Regulations of the Association.

Priority of approval for a Leasing Permit shall be given to any Owner who, prior to the enactment of this Amendment, had a written lease agreement in place on his or her Lot, if said Lessees and Owners have not previously violated the Declaration, By-Laws, and Rules and Regulations of the Association. The Board of Directors shall have the sole discretion to deny, revoke, or non-renew a Leasing Permit or a Hardship Leasing Permit to any Owner if his or her Lessees have violated the Declaration, By-Laws, and Rules and Regulations of the Association.

A Leasing Permit shall be automatically revoked upon the occurrence of any of the following events: (1) the sale or transfer of the Lot to a third party (excluding sales or transfers to an Owner's spouse, or a corporation, partnership, company, or legal entity in which the Owner is a principal); (2) the failure of an Owner to lease

his or her Lot within six months of the Leasing Permit having been issued; (3) the failure of an Owner to have his or her Lot leased for any consecutive six month period thereafter; (4) the expiration of any Lease; or (5) the occurrence of the date referenced in a written notification by the Owner to the Association that the Owner will, as of said date, no longer need the Leasing Permit.

If current Leasing Permits have been issued for **Six (6) Lots** of the total number of Lots in the community, no additional Leasing Permits shall be issued (except for Hardship Leasing Permits, as set forth below) until the number of outstanding current Leasing Permits falls below **Six (6) Lots** of the total number of Lots in the community. Owners who have been denied a Leasing Permit because the Leasing Permit Cap was already reached shall automatically be placed on a waiting list for a Leasing Permit and shall be issued a Leasing Permit if they so desire when the number of current outstanding Leasing Permits issued falls to less than **Six (6) Lots** of the total number of Lots in the community; except for those Owners or Lessees who has previously failed to demonstrate full compliance with the Declaration, By-Laws, and Rules and Regulations of the Association. Priority of approval for a Hardship Leasing Permit shall be given to any Owner who, prior to the enactment of this Amendment, had a written lease agreement in place on his or her Lot and whose Lessees have demonstrated full compliance with the Declaration, By-Laws, and Rules and Regulations of the Association.

(5) Hardship Leasing Permits. If the denial of permission to lease a Lot will result in a hardship, an Owner may seek to lease on a hardship basis by applying to the Board of Directors for a Hardship Leasing Permit. The Board of Directors shall have the sole authority and discretion to issue or deny requests for Hardship Leasing Permits. In making such a determination, the Board may take any factor into account, including: (1) the nature, degree, and likely duration of the hardship, (2) the number of Hardship Leasing Permits which have been issued to other Owners, (3) the Owner's ability to cure the hardship, and (4) whether previous Hardship Leasing Permits have been issued to the Owner. A "hardship" as described herein shall include, but not be limited to the following situations: (1) an Owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six months from the date that the Lot was placed on the market, sell the Lot except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Lot is being administered by his or

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her estate; and (3) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot. Hardship Leasing Permits shall be valid for a term not to exceed one (1) year. Owners who wish to extend their Hardship Permit must reapply no later than three (3) months before expiration of the Hardship Permit. Owners may apply for additional Hardship Leasing Permits. Hardship Leasing Permits shall be automatically revoked if during the term of the permit, the Owner is approved for and receives a Leasing Permit. Hardship Leasing Permits are not subject to the leasing cap described herein.

(6) Leasing Permit Fee. If a Leasing Permit or Hardship Leasing Permit is approved, the Leasing Owner shall pay a nonrefundable Leasing Permit Fee equal to one (1) year's worth of annual assessments immediately upon approval and prior to the commencement of the lease term. Said Leasing Permit Fee shall be collected in the same manner as provided elsewhere in the Declaration for collection of assessments, and as permitted by Section 44-3-225(a)(2) of the Act.

(7) Primary Residency Requirement. Any Lot Owner seeking a permit to lease his or her Lot must have first resided at the Lot as his or her primary residence for a period of twelve (12) consecutive months prior to applying for a Leasing Permit.

(8) Notice. At least fifteen (15) days before entering into a lease, the Owner shall provide the Board of Directors with the terms of the proposed lease agreement and such other information that the Board of Directors may reasonably require. Within ten (10) days after the execution of the lease by both parties, the Owner shall provide the Board of Directors with a copy of the executed lease and the names, phone numbers, employer identities and locations, and email addresses of the lessees.

(i) Use of Common Elements. The Owner transfers and assigns to the lessee, for the entire term of the lease, any and all rights and privileges that the Owner has to use the Common Elements, including, but not limited to, the use of any and all recreational facilities. Such rights and privileges shall not be shared between any Owner and his or her lessee during the term of the lease, and any such sharing shall result in the immediate revocation of any lease permit and the imposition of fines.

(ii) Required Minimum Insurance Coverage. As a condition of being granted a Leasing Permit or a Hardship Leasing

Permit, an Owner must keep and maintain at all times homeowners' insurance coverage sufficient to cover the Replacement Cost Value of the Lot, in the event of damage or destruction to the portions of the Lot for which he or she is responsible to maintain and repair. Any Owner seeking a Leasing Permit or Hardship Leasing Permit must, at the time of his or her application for such a Permit, deliver to the Board of Directors a certificate of insurance, Declarations Page, or other sufficient evidence of a valid and enforceable policy of insurance. Failure to submit such evidence with an application for a Leasing Permit or a Hardship Leasing Permit shall be grounds for denial of a Leasing Permit or a Hardship Leasing Permit.

(iii) Liability for Assessments; Compliance. Each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(1) Compliance with Declaration, By-Laws, and Rules and Regulations. The Owner and lessee shall comply with all provisions of the Declaration, By-Laws and Association Rules and Regulations and shall control the conduct of all other occupants and guests of the leased Lot in order to ensure such compliance. The Owner shall cause all occupants of his or her Lot to comply with the Declaration, By-Laws and Association Rules and Regulations, and shall be responsible for all violations by such occupants, notwithstanding the fact that such Occupants are fully liable and may be sanctioned for any such violation.

If a Lot is leased or occupied in violation of this Article or if the Owner, lessee, or a person living with the lessee, violates the Declaration, By-Laws, or Rules and Regulations, the Association's Board of Directors shall be authorized, in addition to all other available remedies, to levy fines against the lessee and/or the Owner, to suspend all voting and/or Common Element use privileges of the Owner. Occupants and unauthorized tenant(s) and to suspend all common services to the Lot paid for by the Association as a common expense, if any, subject to the provisions of this Declaration and the By-Laws, and to immediately revoke

any Leasing Permit or Hardship Leasing Permit granted to such Owner.

If a Lot is leased or occupied in violation of this Article, the Association may require the Owner to evict the tenant. If the Owner, lessee, or a person living with the lessee, violates the Declaration, By-Laws, or a rule or regulation, such violation is deemed to be a default under the terms of the lease and shall authorize the Owner or the Association, as more fully described herein, to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, By-Laws, and the Rules and Regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf of the Owner, in accordance with the terms hereof. This power and authority in favor of the Association is irrevocable by death or otherwise, coupled with an interest, and cumulative of any other rights and remedies available to the Association. Alternatively, the Association may require the Owner to evict the violating tenant. If the Association proceeds to evict the lessee, any costs incurred by the Association, including but not limited to all reasonable attorney's fees actually incurred, all costs of collection, all costs of performing a physical eviction, and all court costs associated with the eviction action shall all be both a personal obligation of the Owner and Lessees, and a lien against the Lot.

(2) Liability for Assessments. When an Owner who is leasing his or her Lot fails to pay any annual or special assessment, or any other charge, for a period of more than thirty (30) days after it is due and payable, then without prior notice or demand, the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, the lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, said lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of

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the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If said lessee fails to comply with the Board's request to pay assessments or other charges, said lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(iv) Applicability of this Section (Grandfathering of Existing Leases). Owners of any Lots that are leasing same on the date which this Amendment is recorded in the county land records are considered Grandfathered Lots and shall not be subject to the leasing cap number described above, and therefore may continue to lease in accordance with the terms of the Declaration as it existed prior to the recording date of this Amendment, to the extent provided for in O.C.G.A. § 44-3-226(a)(2)(B); provided, however, that any such Grandfathered Lot and the Owner thereof must pay the Leasing Permit Fee in section (f) above upon the effective date of this Amendment.

Further, upon any "conveyance for value" of any Grandfathered Lot, the Lot will be immediately subject to the full provisions of the Amendment as provided for in the Act.

(vi) Rights of First Mortgagees. Notwithstanding anything to the contrary herein contained, the provisions of this Article shall not impair the right of any first Mortgagee to:

- (1) foreclose or take title to the Lot pursuant to remedies contained in any Mortgage;
 - (2) take a deed or assignment in lieu of foreclosure;
- or
- (3) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

2.

Except as otherwise herein provided, the remaining terms of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned officers of Prestwick Homeowners Association, Inc. hereby certify that the above Amendment was duly adopted pursuant to the Declaration and the Act by the required majority vote of the Association, with all required notices being first duly given.

This 16 day of January, 2024

**PRESTWICK HOMEOWNERS
ASSOCIATION, INC.**

By: [Signature], President
President
Print Name: Serena Shaie

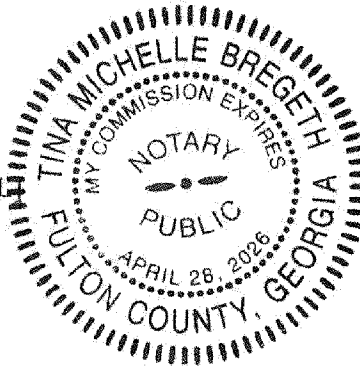
ATTEST:

By: [Signature]
Secretary
Print Name: Julie Henry

[Signature]
Unofficial Witness

Sworn to and subscribed before me
this 16 day of January, 2024

[Signature]
Notary Public [SEAL]
My commission expires: 4-28-26



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