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 Forsyth County, GA
 Greg G. Allen Clerk Superior Ct

BK **7390** PG **108-112**

After recording, please return to:
 Benjamin Ost
 Dorough & Dorough, LLC
 Attorneys at Law
 160 Clairemont Avenue, Suite 650
 Decatur, Georgia 30030
 (404) 687-9977

CROSS REFERENCE: Deed Book: 6240
 Page: 203

AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
 RESTRICTIONS, AND EASEMENTS FOR BRIGHTON VIEW

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
 RESTRICTIONS, AND EASEMENTS FOR BRIGHTON VIEW ("Amendment") is made this
 29 day of MAY, 2015 by **BRIGHTON VIEW COMMUNITY
 ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter called the "Association").

WITNESSETH

WHEREAS, KM Homes, LLC, a Georgia limited liability company (the "Declarant"),
 executed that certain Declaration of Covenants, Conditions, Restrictions, and Easements for
 Brighton View, which was recorded on March 30, 2012 in Deed Book 6240, Page 203, *et seq.*,
 Forsyth County, Georgia records; as amended by that certain Amendment to Declaration of
 Covenants, Conditions, Restrictions, and Easements for Brighton View, which was recorded on July
 23, 2013 in Deed Book 6766, Page 565, *et seq.*, aforementioned records (hereinafter as
 supplemented and/or amended from time to time, collectively 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, acting through the Board of Directors, desires to amend
 the Declaration as set forth herein and submit the Community to the Georgia Property Owners'

**THIS INSTRUMENT SUBJECTS THE MANDATORY MEMBERSHIP
 HOMEOWNERS ASSOCIATION PROVIDED FOR HEREIN TO THE PROVISIONS
 OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220,
 ET SEQ.**

Association Act, O.C.G.A. 44-3-220, *et seq.* (the "Act"), as the same is in effect on the date hereof and as may be amended from time to time, pursuant to the terms and conditions hereinafter set forth; and

WHEREAS, pursuant to Article XVI, Section 16.3 of the Declaration, the Board of Directors, upon termination of the Declarant's right to appoint and remove the directors and officers of the Association as provided in Article III, Section 3.3 of the Declaration, and without the approval of the members, may amend the Declaration for the sole purpose of electing to be governed by the provisions of the Georgia Property Owners Association Act, O.C.G.A. § 44-3-220, *et seq.*; and

WHEREAS, pursuant to Article III, Section 3.3, the Declarant shall have the right to appoint and remove directors and officers of the Association until the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been issued a certificate of occupancy and have been conveyed to any Person not constituting Declarant; and

WHEREAS, as of the date of this Amendment, one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been issued a certificate of occupancy and conveyed to any Person not constituting Declarant;

NOW THEREFORE, the Association, acting through the Board of Directors, hereby submits the Community to the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, *et seq.*, and adopts this Amendment to the Declaration of Covenants, Conditions, Restrictions, and Easements for Brighton View, 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 Act and the Declaration, amended as follows:

1.

The Declaration is hereby amended by deleting Article VI, Section 6.2 of the Declaration entitled, "Creation of the Lien and Personal Obligation for Assessments," in its entirety and replacing it with a new Section 6.2 to read as follows:

6.2 Creation of the Lien and Personal Obligation for Assessments. Except as specifically provided herein, each Owner of any 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 assessments and charges; (ii) special assessments pursuant to Section 6.6 of this Article; and (c) specific assessments, including reasonable fines, pursuant to Section 6.3 of this Article.

All sums lawfully assessed by the Association against any Owner or Lot, whether for the share of the common expenses pertaining to that Lot, for fines, or otherwise, including without limitation, late charges (not in excess of 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 from time to time), 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), costs of collection, reasonable attorneys' fees actually incurred and, if the Board of Directors so elects, the fair rental value of the Lot, and all reasonable charges made to any Owner or Lot for materials furnished or services rendered by the Association at the Owner's request to or on behalf of the 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: (1) liens for ad valorem taxes on the Lot; (2) 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 (3) 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 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 pursuant to a Mortgage described in (2) or (3) above.

No Owner may waive or otherwise exempt themselves from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot or nonuse of the Common Property, including, without limitation, nonuse of the Community recreational facilities. 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 attorney's 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 hereby amended by adding a new Subsection (g) to Article VI, Section 6.8 to read as follows:

(g) If an assessment, fine or charge remains unpaid, the Association may file a claim of lien with the Office of the Clerk of Superior Court of

Forsyth 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.

3.

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

Article XVIII
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.

4.

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

5.

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

6.

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

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

BOARD OF DIRECTORS OF BRIGHTON VIEW ASSOCIATION, INC.

By: Bruce G. Shanks (SEAL)
Print Name: BRUCE G. SHANKS
Director

By: Renee King (SEAL)
Print Name: RENEE KING
Director

By: John R. Stoy (SEAL)
Print Name: JOHN R. STOY
Director

Signed, sealed and delivered in the presence of:

Carol A. Stoy
Witness

[Signature]
Notary Public

My Commission Expires: 8/30/2016

[AFFIX NOTARY SEAL]

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