

Record and Return to:  
PHILLIPS LAW, LLC  
4555 Mansell Road  
Suite 300.  
Alpharetta, Georgia 30022  
(678) 845-8829

Reference:  
Deed Book 11229, Page 0016  
Deed Book 11259 , Page 0036  
Deed Book 12504, Page 0146  
Deed Book 15937, Page 0028  
Deed Book 19484, Page 0133  
Gwinnett County, Georgia

STATE OF GEORGIA  
COUNTY OF GWINNETT

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR MARTINS FARM**

This Amendment is made and entered into by the Martins Farm Community Association, Inc.  
(the "Association").

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Easements for Martins  
Farm (the "Declaration") was recorded on April 17, 1995, in Deed Book 11229, Page 0016, et seq..  
Gwinnett County Georgia records; and

WHEREAS, the Annexation Amendments to the Declaration were recorded in Deed Book 11259,  
Page 0036, Deed Book 12504 Page 0146, Deed Book 15937, Page 0028 and the Declarant Control  
Termination Amendment was recorded in Deed Book 19484, Page 0133 Gwinnett County Georgia  
records; and

WHEREAS, the Association desires to amend certain provisions of the Declaration; and

WHEREAS, the required approval of two-thirds (2/3) of all votes in the Association was obtained; and

WHEREAS, the sworn statement of the President of the Association is attached hereto as Exhibit "A," which states unequivocally that the agreement of the required majority was lawfully obtained;

NOW THEREFORE, the Declaration of Conditions, Restrictions and Easements for Martins Farm is hereby amended as follows:

1.

Section 7.5 is stricken in its entirety and the following is inserted in lieu thereof:

7.5 LEASING

(a) Definition. "Leasing," for the purposes of this Declaration, is defined as regular occupancy of a Lot by any person other than the Owner, with or without a written lease agreement, for which the Owner, any relative of the Owner or any other agent of the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

(b) Limitation on Leasing. In order (1) to protect the equity of the owners at the Association, (2) to carry out the purposes for which the community was formed by preserving the character of the community as a homogeneous residential community of predominately owner-occupied homes and by preventing the community from assuming the character of a renter-occupied community, (3) for other purposes, leasing of Lots at the Association shall be limited to no more than thirteen (13) Lots, except as may be permitted in cases of undue hardship, as defined in Section .7.5 (c) below.

An Owner who occupies a Lot and leases any portion of his or her Lot to one (1) other individual or to an individual and the descendants of the individual shall not be considered to have leased the Lot for purposes of the thirteen (13) Lot limitation, provided the Owner continues to reside in and occupy the Lot throughout the duration of the lease. For purposes of this section, an Owner who allows a lineal descendent or lineal ancestor to reside in the Lot shall not be considered to have leased the Lot for purposes of the thirteen (13) Lot limitation. **This Section 7.5 (b) shall be subject to subparagraph 7.5 (e) below.** If an Owner applies for lease approval at a time when the thirteen (13) Lot limitation has been reached, the Association shall place that Owner's name on a waiting list of Owners who have requested leasing permission. When a Lot is removed from the approved leasing listing, the applicants on the waiting list shall be considered in the order in which their names were added to the waiting list. **Any Lot that has not been occupied by the Lot Owner for a minimum period of one (1) calendar year before consideration will not be approved except as may be permitted in cases of undue hardship, as defined in Section .7.5 (c) below.**

(c) Undue Hardship. Notwithstanding the foregoing, the Board of Directors shall be empowered, in its sole discretion to permit the leasing of a Lot, notwithstanding such prohibition, if such leasing is necessary, to avoid undue hardship upon the Lot Owners. Any Owner who believes that he or she must lease his or her Lot to avoid undue hardship shall submit a written application to the Board at least fifteen (15) days in advance of the proposed commencement of such lease term, setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall only be permitted upon the Board's written approval of the Owner's application, and there shall be no occupancy by any lessee until such approval by the Board is granted. However, failure of the Board to approve or disapprove such written application to allow for leasing due to

undue hardship within ten (10) days from the date of its submission shall automatically deem such application approved by the Board. In the event the Board permits an Owner to lease a Lot for a stated period of time specified by the Board, then such Owner shall immediately discontinue the leasing of his or her Lot at the end of such period of time unless the Board renews or extends permission to lease. If a Lot is approved for a hardship lease as provided in this section, and if the leasing limitation provided in part (b) of this section has been reached at the time the hardship lease approval is given, the Lot with the approved hardship lease shall be placed on a separate list of approved hardship leases and shall not transfer to the list of Lots leasing under part (b). Lots on the separate approved hardship lease listing shall not count as a leased Lot under part (b).

(d) Leasing Provisions. Such leasing as is permitted by this Section of the Declaration shall be governed by the following provisions:

1. General. To qualify for leasing approval, an Owner must be current on any and all payments of assessments, fines, or any other monetary obligations to the Association. Except in cases where the Owner continues to reside in the Lot for the duration of the lease, Lots may be leased only in their entirety and no fraction or portion thereof may be leased. There shall be no subleasing of Lots or assignment of leases. It is the request and expectation of the Board that each Lot Owner shall make all the appropriate background and credit checks on any prospective tenants, and show the Board that such checks have been made. No transient tenants may be accommodated in a Lot. All leases shall be in writing.

Except as otherwise permitted by the Board, all leases must be for a minimum term of twelve (12) months. The Lot Owner must make available to the tenant copies of the Declaration, Bylaws, and the Rules and Regulations, and provide the Board with a written acknowledgment from the tenant that the tenant has received, read, and understood the Association's Declaration, Bylaws, and Rules and Regulations. This acknowledgment shall be provided to the Board at the same time that the Board is provided with a copy of the lease.

Provisions Incorporated by reference Any lease of a Lot at the Community shall be deemed to contain the following provisions, whether or not expressly therein stated, and 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 the existence of this covenant. Any lessee, by occupancy of a Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

- i. Liability for Fines and Other Charges. Lessee agrees to be jointly and severally liable to the Association with the Lot Owner for payment of all fines and other charges which become due as a consequence of lessee's activities, including, but not limited to, activities which

violate provisions of the Declaration, the Bylaws, or the Rules and Regulations adopted pursuant thereto.

ii. Financial Obligation to Association. Upon the failure of the Lot Owner to pay any assessments, fines or other charges due to the Association under the Declaration, lessee shall, upon request by the Association, pay to the Association all rents and other charges payable to the Lot Owner under the lease until such delinquency is satisfied. All such payments made by lessee to the Association shall reduce, by the same amount, lessee's obligation to make monthly rental payments to the Lot Owner. It shall be the responsibility of the Association and not of the lessee to account, upon request, to the Lot Owner for funds actually received by the Association from the lessee.

iii. Compliance With Declaration, Bylaws, and Rules and Regulations. Lessee agrees to abide by and comply with all provisions of the Declaration, Bylaws and Rules and Regulations adopted thereto. Any violation by lessee of the Declaration, Bylaws, or Rules and Regulations adopted pursuant thereto may subject the Lessee and the Owner jointly to fines as provided in this Declaration, and such violation may be deemed a violation of the terms of the lease which

authorizes the Owner 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, Bylaws, and the Rules and Regulations adopted pursuant thereto. In the event grounds for eviction exist, upon notice by the Association, the Owner shall be required to evict its tenant. The Owner's failure so to do, within a reasonable time specified in the notice, shall give the Association the power and right to evict the tenant on behalf of the Owner. All Owners irrevocably appoint the Association as agent for the Owner for this purpose. In the event the Association proceeds to evict the tenant, all costs incurred by the Association for such proceeding, including attorney's fees and court costs, shall be specially assessed against the Lot Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof, and shall be collectible from that Lot Owner in the same fashion as other assessments levied against him.

- iv. Association as Third Party Beneficiary. The Association is a third party beneficiary of the foregoing terms of the lease.

Notice. All Owners leasing their Lots must give fifteen (15) days written notice to the Board of their intention to lease, along with a copy of the proposed lease, and all such leasing and leases shall be subject to approval by the Association in order to assure compliance with the provisions of the Declaration, Bylaws and Rules and Regulations. Leasing shall only be permitted upon written approval of the Owner's application, and there shall be no occupancy by any lessee until such approval is granted. An Owner who has obtained written approval to lease shall have ninety (90) days within which to lease the Lot or the approval shall automatically terminate. The Owner who loses approved leasing status may immediately reapply for leasing permission and shall be placed at the end of the waiting list of Owners seeking permission to lease if such a waiting list exists at the time the Owner reapplies. All notices shall be in writing and shall contain such information as may reasonably be required by the Association. Failure to provide notice as required herein shall constitute disapproval thereof. The Board's review of the proposed lease and approval or disapproval thereof shall be based upon (1) compliance of the proposed lease and lessee with the Declaration, Bylaws and Rules and Regulations of the Association; and (2) submission of the lease notice provided for herein inclusive of all required information. The failure of the Board to approve or disapprove such written application to allow for leasing within ten (10) days from the date of its submission shall automatically deem such application approved by the Board. The Owner shall submit a copy of any signed lease to the Association within ten



(10) days of the date the lease is executed. Any lease which is not authorized pursuant to the terms of this Section 7.5 (d) shall be void.

(e) Use of Common Elements. By executing any lease of a Lot, the Owner of such Lot thereby transfers and assigns to lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the recreational facilities and other amenities that are a part of the Common Property of the Association. During the term of such lease, the Lot Owner shall not be entitled to the use and enjoyment of the recreational facilities, and other amenities that are a part of the Common Property of the Association. This Section shall not apply to any Owner who resides in the Lot during the term of the lease.

(f) Applicability. Those Lot Owners who obtained title by written instrument recorded prior to the recording date of this Leasing Amendment, and who, on the recording date of this Leasing Amendment were leasing their Lots, as defined herein, may continue to lease their Lots in accordance with the terms of the Original Declaration as it existed prior to the recording date of this Leasing Amendment; provided, however, that upon the termination, extension, renewal or modification of the current lease, such Lot Owner shall be subject to the provisions of this Section 7.5, with the exception of subsection 7.5 (b) (Limitation on Leasing). However, upon any sale, transfer or other conveyance of the Lot, any purchaser, transferee or any other grantee thereof shall be subject to the provisions of this Section in its entirety. All Owners of Lots who were not leasing their Lots on the recording date of this Leasing Amendment are subject to the provisions of this

Section 7.5 in its entirety. Notwithstanding anything in this Section 7.5 to the contrary, only those Lot Owners who were leasing their Lots as of the date of the recording of this Leasing Amendment and who, within sixty (60) days of the date of such recording, provide to the Board a copy of such lease, shall be considered to be Lot Owners who are leasing their Lots at the Community as of the date on which this Leasing Amendment is recorded in the Gwinnett County, Georgia records.

This Section 7.5 shall not apply to any leasing transaction entered into by the holder of any first mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such mortgage.

IN WITNESS WHEREOF, the undersigned officers of Martins Farm Community Association, Inc., hereby certify that the above Amendment was duly adopted by the required majority of the Association and its membership.

This \_\_\_\_\_ Day of \_\_\_\_\_, 2016.

Sworn to and subscribed to before me this  
\_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Witness:

\_\_\_\_\_  
Notary Public  
(Affix seal and write date commission expires)  
Commission Expires:

MARTINS FARM COMMUNITY  
ASSOCIATION, INC.

By: \_\_\_\_\_

\_\_\_\_\_, President

Attest: \_\_\_\_\_

\_\_\_\_\_, Secretary  
(Corporate Seal)

**EXHIBIT "A"**  
**AFFIDAVIT OF COMPLIANCE**  
**WITH AMENDMENT REQUIREMENTS**

STATE OF GEORGIA  
COUNTY OF GWINNETT

The undersigned, having first been duly sworn, states under oath as

follows: I am \_\_\_\_\_, and am the duly elected and currently serving as President  
of the Martins Farm Community Association, Inc.

The required agreement of two-thirds (2/3) of the total votes in the Association was obtained,  
pursuant to Section 14.5 of the Declaration, to the attached Amendment. This Amendment received  
the affirmative vote or written consents to adoption of the attached Amendment to the Declaration  
of Protective Covenants, Conditions, Restrictions and Easements for Martins Farm.

All notices required by the Declaration were duly given.

The Amendment to the Declaration as adopted bears my signature as President, the attestation  
of the Corporate Secretary, and the seal of the Association.

Further, Affiant sayeth not.

Sworn to and subscribed to before me this  
\_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_

\_\_\_\_\_ Print name

\_\_\_\_\_  
Notary Public  
(Affix seal and write date commission expires)  
Commission Expires: