

Prepared by and please return to:  
ORVILLE D. COWARD, JR.  
COWARD, HICKS & SILER, P.A.  
43 WEST MAIN STREET  
FRANKLIN, NC 28734

(PROPOSED)

FOURTH AMENDMENT TO COMPLETE MODIFICATION AND  
RESTATEMENT OF THE DECLARATION OF COVENANTS,  
RESTRICTIONS AND EASEMENTS FOR  
CULLASAJA CLUB SUBDIVISION  
DATED AUGUST 18, 2001

THIS FOURTH AMENDMENT, made and entered into effective the \_\_\_\_ day of \_\_\_\_\_, 2024, by CULLASAJA HOMEOWNERS' ASSOCIATION, INC., a North Carolina nonprofit corporation (the "Association");

W I T N E S S E T H :

THAT WHEREAS, the Association declared and recorded the Complete Modification and Restatement of the Declaration of Covenants, Restrictions and Easements for Cullasaja Club Subdivision dated August 18, 2001, recorded in Book D-25 at Pages 754-788, Macon County Public Registry, and recorded in Book 1134 at Pages 332-366, Jackson County Public Registry (the "Declaration"); and

WHEREAS, the Association amended the Declaration by declaring and recording the First Amendment to Complete Modification and Restatement of the Declaration of Covenants, Restrictions and Easements for Cullasaja Club Subdivision dated September 23, 2013, recorded in Book W-35 at Pages 2042-2045, Macon County Public Registry, and recorded in Book 2009 at Pages 851-854, Jackson County Public Registry (the "First Amendment"), Second Amendment to Complete Modification and Restatement of the Declaration of Covenants, Restrictions and Easements for Cullasaja Club Subdivision dated August 21, 2016, recorded in Book P-37 at Pages 1741-1743, Macon County Public Registry, and recorded in Book 2280 at Pages 938-940, Jackson County Public Registry (the "Second Amendment"), and Third Amendment to Complete

Modification and Restatement of the Declaration of Covenants, Restrictions and Easements for Cullasaja Club Subdivision dated October 21, 2022 (the "Third Amendment"); and

WHEREAS, pursuant to Section 9.02 of the Declaration, the Association has authority to amend the Declaration, as amended; and

WHEREAS, the Association has taken action to amend the Declaration, as previously amended, and this Fourth Amendment is made and recorded in accordance with Section 9.02 of the Declaration and Section 47F-2-117 of the North Carolina Planned Community Act.

NOW, THEREFORE, all of the Property as defined in the Declaration and any additional real property which has been or may be hereafter subjected to the provisions of the Declaration shall be held, sold, used and conveyed subject to the following restrictions, covenants, conditions and provisions, which are for the purpose of protecting the value and desirability of and shall run with the title to the Property. The provisions of this Fourth Amendment shall be binding upon all parties having any right, title or interest in the Property and any portion thereof, their heirs, successors in title and assigns, and shall inure to the benefit of each owner thereof. The provisions of this Fourth Amendment are made pursuant to and shall be a part of the common scheme or plan of development for the Property and the provisions hereof shall constitute real covenants running with the land and equitable servitudes and shall be enforceable by the Association, its successors and assigns, and by each and every owner of real property which is a part of the Property, and their heirs, successors and assigns. Accordingly, the Association declares as follows:

1. Capitalized terms used herein shall have the same meanings as those defined in the Declaration.

2. The "sworn statement" required in order to amend the Declaration under Section 9.02 thereof is attached hereto and incorporated by reference.

3. The Declaration is amended by restating Section 4.11(c) as follows:

(c) Reasonable fines may be imposed in accordance with the provisions of the Declaration or any amendment thereto; the By-Laws; the rules, regulations, permits, directives or requirements of the Board, the Architectural Control Committee or the agents or employees of either; and applicable law, including the provisions of Chapter 47F of the North Carolina General Statutes, the Planned Community Act.

4. The Declaration is amended by adding Section 4.12 as follows:

4.12 Procedure for Fines, Assessments for Liability for Damage, and Suspension of Community Privileges or Services. If it is proposed by the Board, the President or the Architectural Control Committee that an assessment be imposed upon an Owner for inflicting damage upon common elements, and/or that an Owner be fined, and/or that privileges or services afforded an Owner or Lot be suspended or discontinued, a hearing shall be conducted by the Board for the purpose of considering such proposal. Notice in writing stating the date, time and place of such

hearing shall be hand delivered to the Owner, or mailed to Owner's address or emailed to the owner's email address appearing on the records of the Association, at least ten days before the scheduled hearing date. The notice shall state that at the hearing the Owner shall have the right to be heard in person or by representative, to present evidence, and to be represented an attorney licensed in North Carolina, provided the Owner notifies the Association of the attorney's name, address, telephone number and email address at least seventy-two hours before the scheduled time and date of the hearing. The notice shall state the charges against the Owner and the possible actions that may be taken by the Board. At the hearing, the procedural and evidentiary rules shall be such as the Board may reasonably establish. The Board's decision shall be based on the following considerations:

(a) If it is proposed that an assessment be imposed for the Owner inflicting damage upon common elements, then the costs to the Association of repairing and replacing the common elements, and the administrative and overhead costs of the Association having to deal with the situation may be taken into consideration;

(b) If it is proposed that an Owner be fined, or that privileges or services afforded an Owner or Lot be suspended or discontinued, due to the Owner violating the provisions of the Declaration or any amendment thereto; or By-laws; or the rules, regulations, permits, directives or requirements of the Board, the Architectural Control Committee or of the agents or employees of either, then the Board may take into consideration the wilfulness or negligence of the Owner's behavior, the harm or offense (including aesthetic offense) caused to other members of the Association, any costs to the Association of repair and replacement, the need for punishment and deterrence when deemed appropriate by the Board in its discretion, and the administrative and overhead costs of the Association in having to deal with the situation.

The Board shall render its decision in writing and shall provide a copy to the Owner. Any amounts assessed against the Owner and any fines levied against the Owner shall be the Owner's personal liability and a lien against the Owner's lot when filed of record in accordance with the provisions of Chapter 47F of the North Carolina General Statutes.

5. Except as specifically amended hereinabove, the provisions of the Declaration and the First Amendment and each of them shall remain in full force and effect.

IN TESTIMONY WHEREOF, this Fourth Amendment has been duly executed.

CULLASAJA HOMEOWNERS'  
ASSOCIATION, INC.

By: \_\_\_\_\_,  
\_\_\_\_\_, President

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged that he is President of CULLASAJA HOMEOWNERS' ASSOCIATION, INC., a North Carolina nonprofit corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by him as its President.

WITNESS my hand and Notarial Seal, this the \_\_\_\_ day of \_\_\_\_\_, 2024.

(Seal)

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

NORTH CAROLINA  
MACON AND JACKSON COUNTIES

AFFIDAVIT AND CERTIFICATION  
attached to and a part of the  
FOURTH AMENDMENT TO THE COMPLETE MODIFICATION  
AND RESTATEMENT OF THE DECLARATION OF COVENANTS,  
RESTRICTIONS AND EASEMENTS FOR CULLASAJA CLUB SUBDIVISION  
DATED AUGUST 18, 2001

\_\_\_\_\_, President, \_\_\_\_\_, Vice-President, and  
\_\_\_\_\_, Secretary of Cullasaja Homeowners' Association, Inc., being first  
duly sworn, say and certify as follows:

This Affidavit and Certification is attached to and is a part of the Fourth Amendment to the Complete Modification and Restatement of the Declaration of Covenants, Restrictions and Easements for Cullasaja Club Subdivision dated August 18, 2001, dated \_\_\_\_\_, 2024 (the "Fourth Amendment"). The Fourth Amendment amends the Complete Modification and Restatement of the Declaration of Covenants, Restrictions and Easements for Cullasaja Club Subdivision dated August 18, 2001, recorded in Book D-25 at Pages 754-788, Macon County Public Registry, and recorded in Book 1134 at Pages 332- 366, Jackson County Public Registry (the "Declaration"), as previously amended. This Affidavit and Certification is made pursuant to Section 9.02 of the Declaration. The Fourth Amendment was adopted by resolution of the Members of the Association at the \_\_\_\_\_ meeting of the Members duly called and held on \_\_\_\_\_, 2024, pursuant to a motion made by the Board of Directors and the President of the Association. The notice of the \_\_\_\_\_ meeting was duly and timely sent to each Member of the Association. The notice specified that the adoption of the Fourth Amendment would be considered at the \_\_\_\_\_ meeting and the substantive of the provisions of the Fourth Amendment were included with the notice. On \_\_\_\_\_, 2024, the date of the \_\_\_\_\_ meeting, Members were entitled to cast a total of \_\_\_\_\_ votes, and there were \_\_\_\_\_ votes represented at the meeting in person or by proxy, and \_\_\_\_\_ votes were cast in favor of the motion for the adoption of the Fourth Amendment; therefore, the Fourth Amendment was approved by Members holding more than 67% of votes in the Association. There is nothing in the Fourth Amendment that would materially and

adversely affect the interest of any mortgagee of any portion of the Property as defined in and encumbered by the Declaration. Therefore, the provisions of Section 9.02 of the Declaration were complied with and the agreement and consent of all required parties was lawfully obtained. The Fourth Amendment shall be effective upon recordation.

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Sworn to and subscribed before me this the \_\_\_\_ day of \_\_\_\_\_, 2024.

(seal)

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_