

**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR THE
FOGG COVE HOMEOWNERS ASSOCIATION, INC.**

THIS AMENDMENT to the Declaration of Covenants, Conditions, and Restrictions (the "Declaration") for the Fogg Cove Homeowners Association, Inc. (the "Association"), is made this ____ day of _____, 2022, by the Association.

WHEREAS, the Declaration, dated November 14, 1984, is recorded among the Land Records of Talbot County in Liber 593 at Folio 182 *et seq.*; and,

WHEREAS, the Supplemental Declaration of Covenants, Conditions, and Restrictions, and Deed of Easements (the "Supplemental Declaration"), dated September 17, 1987, is recorded among the Land Records of Talbot County in Liber 651 at Folio 418 *et seq.*; and,

WHEREAS, the Articles of Incorporation of Fogg Cove Homeowners Association, Inc., dated October 6, 1983, are appropriately recorded with the State Department of Assessments and Taxation of Maryland; and,

WHEREAS, Section 11B-116 of the Maryland Homeowners Association Act (the "Act") provides that "a homeowners association may amend [a] governing document by the affirmative vote of the lot owners in good standing having at least 60% of the votes in the [association];" and,

WHEREAS, the Association has determined that amendments to the Declaration are necessary in order to address a number of issues which are of concern to the Association, and

WHEREAS, the Owners of the Association having at least sixty percent (60%) of the votes in the Association have voted to approve the amendments set forth herein, in accordance with Section 11B-116 of the Act; and,

WHEREAS, the amendments set forth herein do not affect the interests, priorities, remedies or rights of any holder of a mortgage or deed of trust as set forth in Section 11B-117 of the Act;

NOW THEREFORE, pursuant to Section 11B-116 of the Act, the following provisions of the Declaration are hereby amended as follows:

1. Article I

The following provision is hereby added as Article I, Section 12:

12. “Governing Documents” shall mean and collectively refer to the Association’s Declaration of Covenants, Conditions, and Restrictions, dated November 14, 1984, recorded among the Land Records of Talbot County in Liber 593 at Folio 182 *et seq.*, the Association’s Supplemental Declaration of Covenants, Conditions, and Restrictions, and Deed of Easements, dated September 17, 1987, recorded among the Land Records of Talbot County in Liber 651 at Folio 418 *et seq.*, the Articles of Incorporation of Fogg Cove Homeowners Association, Inc., dated October 6, 1983, appropriately recorded with the State Department of Assessments and Taxation of Maryland, the Association’s Bylaws as may be amended by the Owners from time to time, and all rules and regulations promulgated by the Association pursuant to its authority as provided in this Declaration, the Articles of Incorporation or Bylaws.

2. Article IV

Article IV, Section 1 of the Declaration is deleted in its entirety, and the following is inserted in its place:

1. Creation of the Lien and Personal Obligation for Assessments and Fines. Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in the deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments levied in accordance with this Article IV, and (3) other charges or fines levied by the Association against the Owner, following an opportunity for the Owner to be heard and has received timely notice of the same, for any infraction of the Association’s Governing Documents attributable to such Owner or such Owner’s Lot, each of which may be established and collected as an assessment as hereinafter provided. The annual assessments, special assessments, and fines, together with interest, costs, and reasonable attorney’s fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which the assessment is made, provided the requirements of the Maryland Contract Lien Act, if applicable, have been fulfilled. Each annual assessment, special assessment, and fine, together with interests, costs, and reasonable attorney’s fees, shall also be

the personal obligation of the Owner(s) of the Lot at the time the assessment is due and payable. The personal obligation for any delinquent assessments or fines shall not pass to a prior Owner's successors in title unless expressly assumed by such successors.

Article IV, Section 8 of the Declaration is deleted in its entirety, and the following is inserted in its place:

8. Effects of Nonpayment of Assessments and Fines: Remedies of the Association. Any assessment or fine not paid within fifteen (15) days after the due date shall bear interest from the due date until paid at a rate determined by the Board of Directors, up to the maximum rate of interest permitted under the laws of the State of Maryland. The Association may also charge a reasonable late fee against any Owner (and/or such Owner's Lot) who is more than fifteen (15) days delinquent in the payment of any annual assessment or special assessment. Additionally, the entire balance of the unpaid annual assessment for the remainder of the fiscal year may be accelerated at the option of the Board of Directors and be declared due, payable and collectable in the same manner as the delinquent portion of such annual assessment or special assessment. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot provided the provisions of the Maryland Contract Lien Act, if applicable, are fulfilled. No Owner may waive or otherwise escape liability for the assessments or fines provided for herein by non-use of any of the Common Areas or abandonment of such Owner's Lot. The Owner(s) shall also be obligated to pay all attorneys' fees, court costs and administrative costs incurred in connection with the collection of any assessments or fine if not paid when due. This Section shall not be deemed to limit or waiver, and shall be without prejudice to, any and all rights, remedies, or recourses as may be available to the Association for non-payment of assessments or fines.

3. Article V

Article V of the Declaration is deleted in its entirety, and the following is inserted in its place:

ARTICLE V

ARCHITECTURAL CONTROL

1. Architectural Change Approval. No building, pool, fence, wall, mailbox or other structure or improvement of any kind shall be commenced, erected or maintained upon the Property, nor shall any exterior addition or change or alteration therein be made (including, without limitation, changes in color, changes or additions to driveways, or walkway surfaces and landscaping modifications) until complete plans and specifications showing the color, nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association. The Board of Directors of the Association may appoint an Architectural Control Committee composed of three (3) or more members appointed by the Board of Directors of the Association to consider and review the plans and specifications of submitted applications. The Board of Directors of the Association may authorize the Architectural Control Committee to disapprove the plans and specifications of any submitted application, however, the approval of the plans and specifications of a submitted application by the Architectural Control Committee shall not be effective until the same is approved and endorsed by the Board of Directors of the Association. In the event the Board of Directors of the Association, or its designated Architectural Control Committee, fails to approve or disapprove any design and location within sixty (60) days after the plans and specifications for such design and location have been submitted to it, the plans and specifications will be deemed to have been disapproved. Approval by the Architectural Control Committee or by the Board of Directors of the Association shall in no way be construed as to pass judgment on the correctness of the location, structural design, suitability of water flow or drainage, location of utilities, or other qualities of the item being reviewed, nor shall such approval be substituted in lieu of applicable governmental approvals and permits or be deemed to constitute a determination as to the compliance with local zoning ordinances, governmental guidelines or restrictions. The Board of Directors of the Association or the Architectural Control Committee shall have the right to charge a reasonable fee for reviewing each

application in an amount not to exceed the costs actually incurred, including, without limitation, the costs incurred to solicit and engage an appropriate architect, authority, or other such technician to review the design, effects, elements, or features of such application, by the Board of Directors of the Association or the Architectural Control Committee.

Any exterior addition or change or alteration made without an application having first been submitted and approved as provided herein shall be deemed to be in violation of the Governing Documents and the addition, change or alteration may be required to be restored to the original condition at the Owner's costs and expense. In any event, no such exterior addition or change or alteration shall be made without approvals and permits therefor having first been obtained by the Owner from the applicable public authorities or agencies. In addition, no changes, alterations or additions may be constructed which are not in compliance with local zoning ordinances, governmental guidelines or restrictions. The Board of Directors of the Association or the Architectural Control Committee shall at all times retain the right to revoke approval of any plans or specifications for failure to receive or upon the revocation of any necessary or applicable governmental approvals or permits. Any failure of the Association to pursue enforcement for any exterior addition, change or alteration made in violation of the Governing Documents shall not be deemed as a waiver of the Association's right to do so. Any failure of the Association to pursue enforcement for any exterior addition, change, or alteration made in violation of the Governing Documents or any approval of an exterior addition, change, or alteration shall not be deemed a waiver of the right to withhold approval as to any similar exterior addition, change or alteration subsequently submitted for approval.

2. Initiation and Completion of Approved Changes. Construction or alterations in accordance with plans and specifications approved by the Board of Directors of the Association or the Architectural Control Committee pursuant to the provisions of this Article V shall be commenced within six (6) months of such approval and completed within twelve (12) months of such approval, or within such longer time period as the Board of Directors of the Association or the

Architectural Control Committee may specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications shall be conclusively deemed to have lapsed and compliance with the provisions of this Article V shall again be required. There shall be no deviations from plans and specifications approved by the Board of Directors of the Association or the Architectural Control Committee without prior consent in writing of the Board of Directors of the Association or the Architectural Control Committee. Approval of any particular plan, specification or design shall not be construed as a waiver of the right of the Board of Directors of the Association or the Architectural Control Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

3. Certificate of Compliance. Upon completion of any construction or alteration or other improvements or structures in accordance with plans and specifications approved by the Board of Directors of the Association or the Architectural Control Committee in accordance with the provisions of this Article V, the Board of Directors of the Association or the Architectural Control Committee shall, at the request of the Owner thereof, issue a certificate of compliance which shall be prima facie evidence that such construction, alteration or other improvements referenced in such certificate have been approved by the Board of Directors of the Association or the Architectural Control Committee in full compliance with the provisions of this Article V and with such other provisions and requirements of the Association's Governing Documents as may be applicable.

4. Architectural Rules and Regulations; Appeal of Architectural Control Committee Decisions. The Board of Directors of the Association or the Architectural Control Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted for approval and may publish such statements of policy, standards, guidelines and/or establish such criteria relative to architectural styles or details, or other matters, as it may consider necessary or appropriate. No such rules, regulations, statements, standards, guidelines,

criteria or the like shall be construed as a waiver of the provisions of this Article V or any other provisions or requirements of the Association's Governing Documents or the local zoning ordinances, governmental guidelines or restrictions. Compliance of the plans and specifications with any applicable architectural rules, regulations, standards, guidelines or criteria shall not require the plans or specifications be approved by the Board of Directors of the Association or the Architectural Control Committee, and the Board of Directors of the Association or the Architectural Control Committee may disapprove any plans or specifications for any reason. The decisions of the Architectural Control Committee shall be final except that any Owner who is aggrieved by any action or forbearance from action by the Architectural Control Committee may appeal the decision of the Architectural Control Committee to the Board of Directors of the Association and, upon request of such Owner, shall be entitled to a hearing before the Board of Directors of the Association. A vote of two-thirds (2/3rds) of the Board of the Directors of the Association shall be required to reverse the decision of the Architectural Control Committee.

4. Article VIII

The following provision is hereby added as Article VIII, Section 18:

18. No Lot shall be used or occupied for transient or hotel purposes. No portion of any Lot (other than the entire Lot) shall be leased for any period. Arrangements for a reasonable number of roommates are permitted, subject to such reasonable limits on occupancy as may be established from time to time by the Board of Directors, and subject to the requirement that each person residing within any Lot, whether an Owner of record, a tenant, a roommate or other occupant, must be registered with the Association, and must comply fully with the Maryland Homeowners Act, the local zoning ordinances, governmental guidelines or restrictions, the Declaration, Bylaws, and all rules and regulation promulgated by the Board of Directors. Lots shall not be leased for an initial period of less than twelve (12) months. No Owner shall lease a Lot other than on a written form of lease: (i) requiring the lessee to comply with the Declaration,

Bylaws, and all rules and regulations promulgated by the Board of Directors; (ii) providing that failure to comply constitutes a default under the lease, (iii) providing that the Board of Directors has the power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the lessor thereunder after forty-five (45) days prior written notice to the Lot Owner(s), in the event of a default by the tenant in the performance of the lease; and (iv) providing that the tenant shall have no right to sublease the Lot or any part thereof. The Board may suggest a standard form lease for use by Owners, and may require use by Owners of such standard form of lease addendum. Each Owner of a Lot shall, promptly following the execution of any lease of the Lot, forward a conformed copy thereof to the Board of Directors. The foregoing provisions of this Section except the restrictions against use or occupancy for hotel or transient purposes, shall not apply to Lots owned by the Association, to the Declarant, or to a Mortgagee in possession of a Lot as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

5. Article X

Article X, Section 1 of the Declaration is deleted in its entirety, and the following is inserted in its place:

1. Enforcement. The Declarant, the Association, or any Owner, or any mortgagee of any Lot shall have the right to enforce, by an proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, easements, liens, charges or other obligations or terms now or hereafter imposed by the provisions of this Declaration, or the Article of Incorporation, or Bylaws of the Association or any rule or regulation promulgated by the Association pursuant to its authority as provided in this Declaration, the Articles of Incorporation or Bylaws. Failure by the Declarant, the Association or by any Owner or by any mortgagee of any Lot to enforce any covenants or restrictions herein contained or any provision of the Bylaws, Articles of Incorporation or rules and regulations of the Association shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within covenants or restrictions or any provision of the

Bylaws or Articles of Incorporation of the Association cannot be adequately remedied by action at law or exclusively by recovery of damages. If the Declarant, the Association, or any Owner or mortgagee of any Lot successfully brings an action to extinguish a violation or otherwise enforce the provisions of Association's Governing Documents, the costs of such action, including legal fees, shall become a binding, personal obligation of the Owner committing or responsible for such violation, and such costs shall also be a lien upon the Lot of such Owner, provided that the requirements of the Maryland Contract Lien Act are fulfilled.

Without limiting the generality of the foregoing, and in addition to any other remedies available, the Association after reasonable notice, in writing, provided to the Owner, may enter any Lot to remedy any violation of the provisions of the Association's Governing Documents provided, however, that the Association may not enter the interior of any dwelling unit except in an emergency. The costs of such action shall become a binding, personal obligation of the Owner otherwise responsible for such violation and shall also be a lien upon the Lot of such Owner.

The following provision is hereby added as Article X, Section 8:

8. Fines. In addition to the means for enforcement provided elsewhere herein, the Association shall have the right to levy fines against an Owner or such Owner's guests, relatives, lessees or invites, in the manner set forth by the Association, and such fines shall be collectible in the same manner as any other assessment such that the Association shall have a lien against the Lot of such Owner as provided in this Declaration, the Bylaws and the Articles of Incorporation, and such fine(s) shall also become the binding personal obligation of such Owner. A fine levied pursuant to this Section shall be assessed against the Lot which the violator occupied or was visiting at the time of the violation, whether or not the violator is an Owner of that Lot. Nothing herein shall be construed to interfere with any right that an Owner may have to obtain from a violator occupying or visiting such Owner's Lot payment of the amount of any fine(s) assess against that Lot. Nothing herein shall be construed as a prohibition of or limitation on the right of the Association to pursue any other

means of enforcement of the provisions of the Association's Governing Documents, including, without limitation, legal action for damages or injunctive relief.

6. Except as modified by this Amendment, all terms and provision of the Declaration and Supplemental Declaration are hereby confirmed and ratified and shall remain in full force and effect. Where any provision within this Amendment contradicts any provision of the Declaration, this Amendment shall control.
7. This Amendment, and the provisions herein, shall become effective on the date this Amendment is recorded among the Land Records of Talbot County.

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Witness the following signatures and seal this ____ day of _____, 2022.

ATTEST:

**BOARD OF DIRECTORS
FOGG COVE HOMEOWNERS
ASSOCIATION, INC.**

President

Secretary

(STATE OF MARYLAND) ss:

I, the undersigned, a Notary Public in and for the State of Maryland do hereby certify that _____, President of the Board of Directors of the Fogg Cove Homeowners Association, Inc., whose name is signed hereinabove, acknowledged the same before me in the aforesaid jurisdiction.

Given under my hand and seal this ____ day of _____, 2022.

Notary Public

My commission expires

(STATE OF MARYLAND) ss:

I, the undersigned, a Notary Public in and for the State of Maryland do hereby certify that _____, Secretary of the Board of Directors of the Fogg Cove Homeowners Association, Inc., whose name is signed hereinabove, acknowledged the same before me in the aforesaid jurisdiction.

Given under my hand and seal this ____ day of _____, 2022

Notary Public

My commission expires

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**CERTIFICATE OF THE SECRETARY OF
FOGG COVE HOMEOWNERS ASSOCIATION, INC.**

I hereby certify that, on the 11th day of June, 2022, I was acting as the Secretary of Fogg Cove Homeowners Association, Inc. at the meeting of the members at which the aforesaid First Amendment to the Declaration was approved, and that I was the person authorized pursuant to the Association's Bylaws to verify the count the votes at said meeting. I further certify that said approval was by members having the percentage of votes required; that the required written notice of the same was mailed to all Owners; and, that, accordingly, the aforesaid First Amendment to the Declaration shall be effective.

By: _____
_____, **Secretary**

I, the undersigned, a Notary Public in and for the State of Maryland do hereby certify that _____, Secretary of the Board of Directors of the Fogg Cove Homeowners Association, Inc., whose name is signed hereinabove, acknowledged the same before me in the aforesaid jurisdiction.

Given under my hand and seal this ____ day of _____, 2022

Notary Public

My commission expires

ATTORNEY CERTIFICATION

I HEREBY CERTIFY that this First Amendment to the Declaration was prepared by me or under my supervision, and that I am an attorney licensed to practice before the Court of Appeals of Maryland.

Roberto Montesinos, Esq.