

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: NowackHoward LLC  
Resurgens Plaza, Suite 1250  
945 East Paces Ferry Road, NE  
Atlanta, GA 30326  
Attention: George E. Nowack, Jr.

STATE OF GEORGIA  
COUNTY OF FULTON

Cross Reference: Deed Book: 49152  
Page: 605

**First Amendment to the Amended and Restated Declaration of Condominium  
For Westchester Square, A Condominium**

**WHEREAS**, Westchester Square Condominium Association, Inc. (the "Association") is a Georgia non-profit corporation whose members are the owners of the Units in the Westchester Square Condominium, located at 238 15<sup>th</sup> Street, NE, Atlanta GA 30309 (such owners referred to as the "Owners").

**WHEREAS**, the Property is subject to that Amended and Restated Declaration of Condominium for Westchester Square, A Condominium, recorded in 2010 at Deed Book 49152, Page 605 et seq., Fulton County, Georgia, records (the "Declaration");

**WHEREAS**, the Declaration struck in their entirety all previously recorded documents; and

**WHEREAS**, the Declaration provides in Article 11 thereof for certain architectural controls and for certain procedures and terms related to architectural controls;

**WHEREAS**, subparagraphs (b) (i) and (d) of Article 11 of the Declaration provide that defined architectural changes may only be made with the approval of 100% of the Owners (such percentage referred to as the "Approval Percentage");

**WHEREAS**, subparagraph 21(a) of the Declaration provides that the Approval Percentage may only be amended by a vote of 100% of the Owners (such percentage referred to as the "Amendment Percentage"); and

**WHEREAS**, O.C.G.A. 44-3-93 (a) (2) provides that from and after July 1, 1990, no amendment of a condominium instrument shall require the approval of unit owners to which more than 80% of the association vote pertains; and

**WHEREAS**, the Amendment Percentage exceeds the limit of eighty percent (80%) imposed by O.C.G.A. 44-3-93 (a) (2); and

**WHEREAS**, this Amendment is intended to conform the Declaration to O.C.G.A. 44-3-93 and to modify Paragraph 11; and

**WHEREAS**, Paragraph 21 provides the Declaration may be amended by the affirmative vote, written consent or any combination of affirmative vote and written consent of the members of the Association holding sixty-six and 2/3 percent (66 2/3%) (16) of the total eligible vote; and

**WHEREAS**, more than sixty-six and two-thirds percent (66 2/3%) (16) of the total eligible vote have approved this Amendment.

**NOW THEREFORE**, the following amendments are made to the Declaration as of the Effective Date indicated below:

1.

**Amendment of the Approval Percentage:** The following language appearing in the last independent clause of the first paragraph of subparagraph 11(b) (i) of the Declaration is deleted:

*“unless such Owner shall have first obtained the unanimous consent in writing of all of the other Owners and such mortgagees as may have title or Interest in any dwelling at Westchester Square.”*

and the following language shall be inserted in lieu of the foregoing deleted language:

*“unless the Owners approve of such change or modification pursuant to the procedures provided in subparagraph 11(d) of this Article 11.”*

2.

**Amendment Concerning the ACC Approval Process:** Subparagraph 11(d) is amended by deleting such subparagraph in its entirety and inserting in lieu thereof the following:

“(d) Review Process and Required Action by the Board/ACC and the Unit Owners.

(i) Commencement of Review Process. Any Owner desiring to make any change to their Unit that is a change to the exterior or that may constitute an action described in subparagraph 11(b) (i) or (ii) shall so notify the ACC (or the Board if no ACC has been established) and shall supply such descriptions, drawings and other information that the ACC/ Board may request. If the ACC/ Board determines that such change does in fact constitute an action described in subparagraph 11(b) (i) or (ii), then such action shall be subject to the Architectural Review Process described in subparagraph 11(d) (ii) below. If the Owner then desires that the action be approved pursuant to the Architectural Review Process, the Owner shall submit a request for approval of the architectural change, in such form and with such information as the ACC/ Board shall request. The ACC/ Board will then institute the Architectural Review Process set forth in subparagraph 11(d) (ii) below.

(ii) Architectural Review Process.

(A) Meeting of the Owners. A meeting of the Owners to discuss a requested architectural change will be held within 21 business days after receipt of the request from the Owner that the action be approved pursuant to the Architectural Review Process. Notice of the meeting shall be given in accordance with the Bylaws for a special meeting of the members. The notice to the Owners shall include the information provided to the ACC/Board. The notice will inform the Owners if the ACC/Board recommends approval or denial of the requested change. At the meeting, the requesting Owner will present the request.

(B) Voting by the Owners. Following the meeting of the Owners, the ACC/ Board shall deliver a written ballot to each Owner that allows a vote either for or against the requested architectural change. The Owners shall have three weeks to vote for or against the requested change, and the ballot shall state the deadline date for the vote. The requested change will be approved if 90% (21) or more of the 23 Owners approve of the change (such 90% shall be referred to as the “Approval Percentage”). To implement this voting requirement the following procedure shall be used: If three or more votes against the requested change are received by the deadline date for the vote, such requested change shall be deemed denied and the Owner may not

proceed with such change. If at least three votes against the requested change are not received by the deadline date for the vote, such requested change shall be deemed approved by 90% of the 23 Owners and the Secretary of the Association shall certify that such change has been approved pursuant to the terms of the Declaration. The vote by the Owners shall be final.

(C) Construction of Approved Architectural Changes. All work done pursuant to the approval of an architectural change must be done in a manner consistent with the approved changes as described in the materials and information submitted with the architectural change application. Such work must also be consistent with any conditions imposed by the ACC/ Board. The ACC or Board may stop any work that is not consistent with the approved change or the ACC/ Board conditions.

(D) Address for Notice of Meetings. When an Owner has advised the Secretary of the Association of additional mail or e-mail addresses, notice shall be sent to those additional addresses.

3.

**Amendment of the ACC Amendment Percentage.** Subparagraph 21(a) is amended by deleting the second sentence in its entirety and inserting in lieu thereof the following:

“Notwithstanding anything to the contrary in this Declaration the architectural change Approval Percentage in subparagraph 11 (d) (ii) (B) may be amended by a vote of 80% (19 units) of all of the Owners (such 80% being referred to as the “Amendment Percentage).”

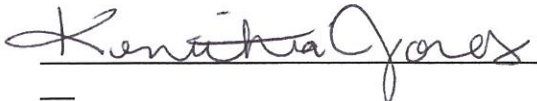
**IN WITNESS WHEREOF**, the undersigned Officers of Westchester Square Condominium Association, Inc., hereby certify that the above First Amendment to the Amended and Restated Declaration was duly adopted by the Association Members casting at least sixty-six and two-thirds percent (66 2/3%) of the total eligible vote with any required notices duly given.

This 30 day of November, 2017.

Signed, sealed and delivered this 30 day of November, 2017 in the presence of:

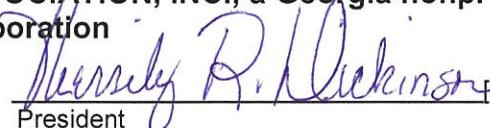


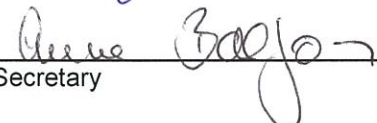
Witness



Notary Public

**WESTCHESTER SQUARE CONDOMINIUM ASSOCIATION, INC., a Georgia nonprofit corporation**

By:  [SEAL]  
President

Attest:  [SEAL]  
Secretary

[CORPORATE SEAL]

