

CRESSWIND LL COMMUNITY FUND, INC.
A GEORGIA NON-PROFIT CORPORATION BY LAWS

Last Amended by vote of members January 25, 2023

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CRESSWIND LL COMMUNITY FUND, INC.

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BACKGROUND

Robert Rivers, James McCormack and Clair Langmaid (the “Initial Members”) have formed **CRESSWIND LL COMMUNITY FUND, INC.** as a Non-profit corporation under the Georgia Non-Profit Corporation Code pursuant to Articles of Incorporation filed with the Georgia Secretary of State on June 17, 2015, and desire to adopt these By-Laws to govern the operations of the Company.

The Members intend that the Company be classified as non-profit corporation for federal and state income tax purposes.

THE AGREEMENT

NOW, THEREFORE, the Members on behalf of themselves and all future Members hereby agree as follows:

1. THE COMPANY

1.1 *Formation.*

1.1.1 *Formation; Statutory Compliance.* The Company constitutes a Non-Profit Corporation formed pursuant to, and governed by, the Georgia Non-profit Corporation Code (the “Code”) and other applicable laws of the State of Georgia. The Officers shall, when required, file such amendments to or restatements of these By-Laws and such other documents and instruments, in such public offices in the State of Georgia or elsewhere as they deem advisable to give effect to the provisions of this By-Laws and the Articles of Incorporation, to respect the formation of and the conduct of business by, the Company, and to preserve the character of the Company as a non-profit corporation.

1.1.2 *Incorporators Release.* The Company hereby ratifies and adopts the acts and conduct of the Company’s incorporation in connection with the Company’s incorporation as acts and conduct by and on behalf of the Company. The organizational and other activities for which the incorporators were responsible have been completed. The incorporators are hereby relieved of any further duties and responsibilities in that regard, and the Company and the Members hereby indemnify and hold harmless the incorporators for any loss, liability or expense arising from their actions or conduct in such capacity.

1.2 *Name; Place of Business; Registered Office*

The business of the Company is conducted under the name of "CRESSWIND LL CCOMMUNITY FUND, INC." The principal office and place of business of the Company is 3300 Cresswind Marina Drive, Gainesville, Georgia 30504. The registered office of the Company is located at 3300 Cresswind Marina Drive, Gainesville, Georgia 30504.

1.3 Purpose.

The corporation is organized exclusively for charitable, educational, and cultural purposes, including, but not limited to, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

1.4 Dissolution.

1.4.1 *Events Causing Dissolution.* The Company shall be dissolved and its affairs wound up only upon the earlier of the following to occur:

(a) The written agreement of at least 75% of all of the Members present at a meeting called for such purpose to dissolve the Company. Dissolution shall become effective at a time approved by at least 75% of all of the Members present at a meeting called for such purpose.

(b) A decree of judicial dissolution; or

(c) When required by law.

1.4.2 Liquidation of Property and Application of Proceeds.

Upon the dissolution of the Company, the Officers (or, if none, a liquidator appointed by the Personal Representatives of the deceased Members) will wind up the Company's affairs in accordance with the Georgia Code, and will be authorized to take any and all actions contemplated by the Georgia Code as permissible, including, without limitation;;

(a) prosecuting and defending suits, whether civil, criminal, or administrative

(b) settling and closing the Company's business, causing the Accountants to prepare a final financial statement in accordance with Section 1.5.3,

(c) liquidating and reducing to cash the Property as promptly as is consistent with obtaining its fair value;

(d) discharging or making reasonable provision for the Company's liabilities; and

(e) distributing the proceeds of liquidation and any undisposed Property in accordance with Article 8 of the Company's Articles of Incorporation.

1.5 *Books, Records and Tax and Accounting Matters.*

1.5.1 *Availability.* At all times during the existence of the Company, the Officers must keep or cause to be kept complete and accurate books and records appropriate and adequate for the Company's business. Such books and records, whether financial, operational or otherwise and including a copy of this Agreement, any amendments to it, and a record of the active Members, must at all times be maintained at the principal place of business of the Company. Any Member or such Member's duly authorized representative, subject to reasonable standards established by the Officers governing what information and documents are to be furnished at what time and location and at whose expense, has the right at any time, for any purpose reasonably related to such Member's Membership, to inspect and copy from such books and documents during normal business hours.

1.5.2 *Tax and Accounting Decisions.* All decisions as to tax and accounting matters, except as this Agreement specifically provides to the contrary, are made by the Board of Directors

1.5.3 *Reports. Audits.* Within sixty (60) days after the end of each fiscal year, or such other times as determined by the Board of Directors, the Board of Directors shall cause to be delivered to all Members a statement of receipts and distributions, and a balance sheet as of the end of, such year or other period and the related notes, if any, together with any report thereon prepared and delivered by the Accountants. The Company's financial statements and condition shall be audited at least on a bi-annual basis.

1.5.4 *Tax Returns.* The Board of Directors shall prepare, or cause the Accountants to prepare, all federal, state, municipal and other tax returns that the Company is required to file, and file with the appropriate taxing authorities all returns required to be filed by the Company in a manner required for the Company to be in compliance with any law governing the timely filing of such returns.

1.5.5 *Taxable and Fiscal Year.* The Company's taxable and fiscal years are a calendar year. The initial taxable and fiscal year shall be less than a calendar year.

1.5.6 *Depositories.* The Board of Directors shall maintain or cause to be maintained one or more accounts for the Company in such depositories as the Board of Directors shall select. All receipts of the Company from whatever source received shall be deposited to such accounts, all expenses of the Company shall be paid from such accounts, and no funds not belonging to the Company shall be deposited to such accounts. All amounts so deposited shall be received, held and disbursed by one or more Officers

designated by the Board of Directors only for the purposes authorized by this Agreement. All checks shall be signed by either the President or the Treasurer unless check amount exceeds \$500. Then two (2) signatures are required.

1.6 *Amendment of Articles of Incorporation*

The Articles of Incorporation may be amended only by a vote to amend by at least 75% of all of the Members present at a meeting announced for such purpose.

2. MEMBERS

2.1 *Rights and Obligations of Members.*

2.1.1 *Limitation on Members' Liabilities.* Each Member's liability shall be limited as set forth in this Agreement and the Georgia Code and other applicable law. Notwithstanding the provisions of this Agreement, failure by the Members to follow the formalities relating to the conduct of the Company's affairs set forth herein shall not be a ground for imposing personal liability on a Member of the Company.

2.1.2 *Contributions.* No Member shall have the right to demand or receive the return of any contribution to the Company or have priority over any other Member, as to the return of any Contribution.

2.1.3 *Membership:* Members must be a resident of Cresswind at Lake Lanier and a member of the Company in good standing and willing to commit the time and energy necessary to ensure the success of the Company. To be in "good standing", a Member should:

- * Make at least one monetary contribution of any amount.
- *Commit to attending meetings.
- *Commit the time and effort to be a productive Member
- *Have a good understanding of the Company, what it does and how it works.
- *Agree to support the majority decision of the Members and the Board of Directors.

2.1.4 *Expulsion of a Member.* A Member may be removed or expelled from membership in the Company by a vote of a Majority of Members at a meeting called for such purpose. The expulsion shall become effective immediately upon the conclusion of the vote.

2.1.5. *Admission of New Members.* A person will be admitted as a Member of the Company, upon making an initial monetary contribution of any amount.

2.2 *Meetings: Regular, Special, Quorum, Virtual.*

(a) Regular meetings of the Company shall be held Quarterly, or as designated by the President.

(b) In the month of January, the annual meeting shall be held in conjunction with the regular business meeting at which time Board members will be elected or confirmed and a full and complete annual accounting of the financial condition of the Company shall be made to the Members.

(c) Special meetings may be called at any time by the President. Also, 10% of the Members may request a special meeting through the President, in writing submitted to the Board. In all cases, special meetings shall be limited to the stated purpose which must be communicated in advance to all Members.

(d) A quorum shall be at least 10% of all Members present in person or by proxy at any regular or special meeting in order for Company business to be conducted. A Majority vote of the Members present at a meeting is needed to approve any Company business not otherwise specified herein.

(e) At least 10% of the Members must be present in person or by proxy at any regular, special, or annual meeting before the election of directors, or amendments to the By-Laws can commence. A vote of the Majority of the Members present at a meeting is needed to approve amendments to the By-Laws, or to elect Directors.

(f) Each Member shall have one vote in all matters.

(g) The conduct of all meetings shall be governed by Robert's Rules of Order.

(h) Regular or Special meetings may be held using virtual resources as determined necessary by the Board of Directors.

2.2.1 *Electronic Voting by Members.* Any action required or permitted to be taken at a meeting of Members may be accomplished by an electronic vote. Electronic voting by the means approved by the Board of Directors may be used in lieu of a meeting to elect directors or amend the By-Laws. At least 10% of the Members must participate in an electronic vote for the election of directors, or amendments to the By-Laws

to be valid. A majority of the Members voting electronically is needed to approve amendments to the By-Laws or to elect Directors.

2.2.2 *Notice.* Members must be provided with at least five (5) days' notice of a meeting of the Members. The notice must contain the date, time and place of such meeting. Unless otherwise provided herein or required by the Georgia Code, the notice need not state the purpose or purposes of the meeting. Information as to how a Member can participate by proxy shall be provided by the Directors promptly upon request.

2.2.3 *Waiver of Notice.* A Member may waive any notice required by the Georgia Code, the Articles or this Agreement before or after the date and time of the meeting or event for which notice is required or before or after the date and time stated in the notice. The waiver must be in writing, be signed by the Member entitled to the notice and be delivered to the Company for inclusion in its records. A Member's attendance at a meeting waives objection to lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

2.3 *Members Contributions.*

2.3.1 *Contribution.* In order to become a Member of the Company, such person shall first make an initial monetary contribution of any amount.

2.3.2 *Other Matters.*

(a) Except as otherwise provided in this Agreement, no Member may demand or receive a return of Contributions. No Member has the right to receive property other than cash except as specifically provided in this Agreement. No Member is entitled to interest on any Contribution.

3. MANAGEMENT

3.1 *The Board of Directors.*

3.1.1 *Management and Authority.* The business and affairs of the Company shall be managed by one or more of its Officers duly elected by the Board of Directors. Except with respect to matters where the approval of the Members is expressly required pursuant to this Agreement, or by non-waivable provisions of applicable law, the Board of Directors have, to the full extent permitted by the Georgia Act, sole, exclusive, full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business, including, without limitation, the right and power

to appoint individuals to serve as officers of the Company and to delegate authority to such officers.

3.1.2 Number, Tenure and Qualifications. The Company shall have up to eight (8) Directors. All Directors shall be elected by the Members to serve a two-year term or until his or her successor is elected and qualified. There is no limit to the number of terms a Director may be elected to serve. Each Director must be elected pursuant to Section. 2.2 or 2.2.1 of these By-laws. All voting to expel Members or relieve officers of duties shall be conducted by secret ballot. For any other voting, a secret ballot may be called for by a Majority of Members.

3.1.3 Appointment of Officers. The Board of Directors shall appoint the following officers of the Company which will have the following duties and responsibilities at the first Board meeting following the Annual meeting.

1. *President.* The President's duty is to preside over meetings, set meeting dates and locations, appoint committees and see that resolutions passed by the Board of Directors are carried out. The President shall also supervise the day to day operations of the Company.
2. *Vice-President.* The Vice-President takes the place of the President when the President is absent or incapacitated. The Vice President shall also perform such other duties assigned by the President.
3. *Secretary.* The Secretary's duty is to keep a record of the actions authorized by the Board of Directors and Members and notify Directors and Members of meetings and other activities.
4. *Treasurer.* The Treasurer's duty is to keep a record of the Company's receipts and disbursements. The Treasurer will also prepare an Annual Report to the Members and promptly see that the needed tax information is compiled, organized and timely filed with the appropriate taxing authorities.

The number of Directors may be increased or decreased by a vote of a Majority of Members present. A Director shall hold office for a term of **two** years from the date of his or her election or sooner if the Director resigns, dies, becomes permanently disabled, or is no longer a Member. Directors are elected or appointed and may be removed by a vote of a Majority of the Members present.

3.1.4 *Quorum and Voting of Directors.* Meetings of the Directors will be held at least once each calendar quarter at such times and places as the Directors determine. Meetings may be held in person or by telephonic or electronic means where all persons participating in the meeting can hear each other or can confirm that the other participants

are participating. Notice of the time and place of the meeting must be given at least two days prior to the meeting. Each Director shall have one vote. Fifty percent (50%) of the Directors shall constitute a quorum. A Majority of the Directors present at or participating in a meeting is necessary to decide any matter arising in connection with the business and affairs of the Company.

3.1.5 Waiver of Notice. A Director may waive any notice required by the Georgia Act, the Articles or this Agreement before or after the date and time of the meeting or event for which notice is required or before or after the date and time stated in the notice. The waiver must be in writing, be signed by the Director entitled to the notice and be delivered to the Company for inclusion in its records. A Director's attendance at or participation in a meeting waives objection to lack of notice or defective notice of the meeting, unless the Director at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

3.1.6 Action by Directors without a Meeting. Action required or permitted to be taken at a meeting of Directors may be taken without a meeting if the action is taken by persons who would be entitled to vote and represent not less than the minimum number of votes that would be necessary to authorize or take the action. The action must be evidenced by one or more written consents describing the action taken, signed by the Directors entitled to take such action and delivered to the Company for inclusion in its records. Action taken under this Section 3.1.5 is effective when the Directors required to approve such action have signed the consent, unless the consent specifies a different effective date. The record date for determining Directors entitled to take action without a meeting is the date the first Director signs a written consent.

3.1.7 Duties and Obligations of Directors.

3.1.7.1 The Directors must take all actions necessary or appropriate

(i) for the continuation of the Company's valid existence as a nonprofit corporation under the laws of the State of Georgia and of each other jurisdiction in which such existence is necessary to enable the Company to conduct the business in which it is engaged and

(ii) for the accomplishment of the Company's purposes.

3.1.7.2 The Directors must devote to the Company such time as may be necessary for the proper performance of all of their duties under this Agreement, but the Directors are not required to devote full time to the performance of such duties. The Directors will not incur any liability to the Company or to any Member as a result of engaging in any other business or venture.

3.1.8 Restrictions on Authority of Directors.

(a) Without the consent of all of the Members, the Directors have no authority to:

- (i) do any act in contravention of this Agreement;
- (ii) do any act which would make it impossible to carry on the ordinary business of the Company, except as otherwise provided in this Agreement;
- (iii) possess Property, or assign rights in specific Property, for other than a Company purpose; or
- (iv) knowingly perform any act that would subject any Member to liability for the obligations of the Company in any jurisdiction.

(b) Without the consent of a Majority of Members, the Directors have no authority to:

(i) file a voluntary petition or otherwise initiate proceedings (x) to have the Company adjudicated insolvent or, (y) seeking an order for relief of the Company as debtor under the United States Bankruptcy Code (11 U.S.C. §§ 101 *et seq.*); file any petition seeking any composition, reorganization, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy laws or any other present or future applicable federal, state or other statute or law relative to bankruptcy, insolvency, or other relief for debtors with respect to the Company; or seek the appointment of any trustee, receiver, conservator, assignee, sequestrator, custodian, liquidator (or other similar official) of the Company or of all or any substantial part of the Property, or make any general assignment for the benefit of creditors of the Company, or admit in writing the inability of the Company to pay its debts generally as they become due, or declare or effect a moratorium on the Company's debt or take any action in furtherance of any proscribed action;

- (ii) require additional Contributions;
- (iii) admit new Members or cause the withdrawal of a Member;
- (iv) remove or replace a Director
- (v) transfer all or substantially all of the Property;
- (vi) do any other matters expressly set forth in this Agreement as requiring the consent, vote or approval of a Majority of the Members.

(c) Directors shall have no authority to dissolve the Company. Dissolution can only be accomplished in accordance with Section 1.4.1 above.

3.1.9 Liability of Members and Directors. A Member or Director of the Company is not liable to the Company or to any Member or Director for any action taken, or any failure to take any action, as a Member or Director, except for liability with respect to (a) intentional misconduct or a knowing violation of law, or (b) any transaction for which such Member or Director received a personal benefit in violation or breach of any provision of this Agreement. If the Georgia Code is hereafter amended to authorize the further elimination or limitation of the liability of members or Directors, then the liability of a Member or Director of the Company, in addition to the limitation on liability provided herein, shall be limited to the fullest extent permitted by the amended Georgia Code. In the event that any of the provisions of this Section 3.1.9 (including any provision within a single sentence) is held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions are severable and shall remain enforceable to the fullest extent permitted by law.

3.1.10 Compensation. None of the Directors or Officers will be entitled to any compensation from the Company, but may be entitled to reimbursement of normal and reasonable expenses incurred in the performance of his or her duties.

3.1.11 Resignation. A Director may resign at any time by giving written notice to Members. The resignation of a Director takes effect upon receipt of such notice or at such later time as is specified in such notice, and, unless otherwise specified in such notice, the acceptance of such resignation is not necessary to make it effective. Unless set forth otherwise in this Agreement, the resignation of a Director does not affect the Director's rights as a Member and does not constitute a withdrawal of a Member.

3.1.12 Vacancies. Any vacancy of the Directors occurring for any reason will be filled by the affirmative vote of a Majority of the Members. The Director elected to fill a vacancy shall hold office until his or her predecessor's term would have expired.

3.1.13 Removal of Directors. Members may remove one or more Directors by a vote of a Majority of Members at a meeting where notice has been given of such proposed action.

4. DISTRIBUTIONS

4.1 Distributions.

The Directors may, from time to time, by resolution duly adopted, determine the procedure to be followed in selecting Persons or third party entities to whom distributions are to be made and amount and the amount thereof in furtherance of the Company's purpose as stated in Section 1.3 of these By-laws.

4.2.1 Distribution to Members. There shall be no distribution made to any Member

4.2.2 *In Kind Distributions.* In the case of dissolution, any assets of the Company other than cash to be distributed must first be approved by all Members. Assets will be distributed in accordance with Article 8 of the Company's Articles of Incorporation.

5. TRANSFERS AND REDEMPTION RIGHTS

5.1 *Transfer of Interests.*

5.1.1 *Restriction on Transfers.* Membership in the Company is not transferable.

5.1.2 *Prohibited Transfers.* No Member shall be permitted to transfer membership in the Company to a creditor. Any attempt to transfer a Membership shall result in the immediate termination of rights of membership.

5.2 *Withdrawal.*

5.2.1 *Death of a Member.* Membership in the Company shall automatically terminate upon the death of a Member.

6. DEFINITIONS AND MISCELLANEOUS

6.1 *Definitions.*

As used in this Agreement, the following terms shall have the following meanings:

"**Accountants**" means any accounting firm or accountant engaged for the Company.

"**Agreement**" means these By-Laws of the Company, as amended from time to time.

"**Articles**" means the Articles of Incorporation of the Company, duly filed with the Secretary of State of the State of Georgia, as amended.

"**Code**" means the United States Internal Revenue Code of 1986, as amended.

"**Company**" means Cresswind LL Community Fund, Inc., a non-profit corporation organized under the laws of the State of Georgia.

“Cresswind at Lake Lanier” means the Cresswind at Lake Lanier Community Association and/or its duly appointed Advisory Board

"Georgia Code or **"Act"** means the Georgia Nonprofit Corporation Act, as amended.

"Majority " means more than fifty percent (50%) of the Members

"Directors" means the Persons described in Section 3.1.2 of this Agreement.

"Member" in each fiscal year, means an individual who makes a contribution to the Company.

Officer" means a Director who has been duly elected or appointed an officer of the Company.

"Operating Expenses" means, with respect to the Company for any period, all costs and expenses paid or incurred during such period by the Company in the ordinary course of its business.

"Person" means any individual, partnership, corporation, trust, unincorporated association, joint venture, limited liability company or other entity or any government, governmental agency or political subdivision.

"Personal Representative" means the Person acting in a representative capacity as the executor or administrator of a Member's estate or the duly appointed guardian of the property of a Member.

"Property" means all assets owned by the Company and forming a part of or in any way related to or used in connection with the ownership, operation and management of the business of the Company, including, without limitation, all real and personal property.

6.2 Miscellaneous.

6.2.1 Notices. All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement must be in writing and signed by the party giving the same and are deemed given or made (a) two (2) days after being mailed by certified or registered mail, postage prepaid, (b) when transmitted via facsimile, email, PDF, graphic scanning or other telegraphic communication or electronic transmission, or (c) when hand delivered,

6.2.2 Severability. In the event there is a final determination that a provision of this Agreement is invalid, such provision is deemed stricken from this Agreement, and will continue in full force and effect as if the offending provision were never a part of this Agreement.

6.2.2 *Captions.* Captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or prescribe the scope of this Agreement or the intent of any provision.

6.2.3 *Person and Gender.* The masculine gender includes the feminine and neuter genders and the singular includes the plural.

6.2.4 *Applicable Law.* Notwithstanding the place where this Agreement may be executed by any of the parties, the parties expressly agree that all the terms and provisions of this Agreement are construed under and governed by the laws of the State of Georgia.

6.2.5 *Entire Agreement.* This Agreement, together with its Exhibits, constitute the entire agreement of the parties with respect to matters set forth in this Agreement and supersedes any prior understanding or agreement, oral or written, with respect to such matters.

6.2.6 *Agreement in Counterparts.* This Agreement may be executed in several counterparts and all so executed constitute one Agreement, binding on all the parties, notwithstanding that all the parties are not signatories to the original or the same counterpart.

6.2.7 *Further Assurances.* Each Member agrees to execute and deliver all such further instruments and do all such further acts as the Directors deem advisable to effectuate this Agreement.

By signature of the Secretary of the Company, these are declared to be the Bylaws of the Company as approved by a vote of the Members present at a meeting called for such purpose on this date of January 25, 2023.

Cathy Jeffrey
Secretary