

Prepared by and after recording
return to:

Donna J. Feldman, Esq.
FELDMAN & MAHONEY, P.A.
2240 Belleair Road, Suite 210
Clearwater, Florida 33764

DECLARATION OF RESTRICTIVE COVENANTS

This DECLARATION OF RESTRICTIVE COVENANTS ("**Declaration**") is made as of September 10, 2018, by and between GREYHAWK VENTURE, LLC, a Florida limited liability company ("**Seller**"), whose address for notice purposes is 7807 Baymeadows Road East, Suite 205, Jacksonville, Florida 32256, and RICHMOND AMERICAN HOMES OF FLORIDA, LP, a Colorado limited partnership ("**Buyer**"), whose address for notice purposes is 1560 Wells Road, Building A, Suite 105, Orange Park, Florida 32073, with reference to the following facts:

A. Seller and Buyer have entered into that certain Greyhawk Purchase and Sale Agreement, with an Effective Date of June 12, 2017 (as amended, the "**Agreement**"), for the purchase and sale of certain platted lots described therein, including the lots described on Exhibit A attached hereto (collectively, the "**Lots**") within the Greyhawk community ("**Community**") located in unincorporated Clay County ("**County**"), Florida.

B. Contemporaneously herewith, Seller is conveying the Lots to Buyer pursuant to the terms of the Agreement.

C. Pursuant to the terms of the Agreement, Seller and Buyer wish to enter into this Declaration, to be recorded in the public records of Clay County, Florida ("**Public Records**"), for the purpose of providing record notice that the Lots are subject to certain surviving obligations and agreements between the parties, as described in this Declaration, and the Lots shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations and restrictions.

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals; Exhibits; Defined Terms. The above stated recitals are true and correct and, together with the exhibits attached hereto, are hereby incorporated into this Declaration by this reference. Any capitalized term, not otherwise defined herein, shall have the meaning ascribed to such term under the Agreement.

2. Impact Fee Credits. Pursuant to Section 7(c) of the Agreement, to the extent that impact fee credits are available or become available prior to the time that Buyer would be required to pay the associated impact fee to the County, then Buyer shall not pay the same to the County but shall, instead, pay Seller or such third party as to which recorded documentation evidences a requirement for payment to a

third party for the associated impact fee credit in the amount then charged by the County for the associated impact fee in exchange for an assignment or allocation of such impact fee credit to Buyer in a form which will be accepted by the County. To the extent that any third party holds impact fee credits, then Buyer shall pay such third party as and when required by the recorded documentation evidencing the same. To the extent that impact fee credits arise after Closing, then Seller shall notify Buyer of the availability of such additional impact fee credits, and Buyer shall pay such party as Seller directs for such impact fee credits at the then-current rate charged by the County for the applicable fee in lieu of paying such fee directly to the County. Buyer shall not make any impact fee payment directly to the County without first notifying Seller that Buyer intends to pay the same, and receiving written notification from Seller that no associated impact fee credit is available. Notwithstanding the foregoing, Buyer hereby acknowledges and agrees that it is Buyer's sole responsibility to pay, at Buyer's sole cost and expense, all impact fees and development-related charges required for the construction of any improvements thereon. In any event, Buyer shall not be required to pay impact fees for any Lot more than once, pay impact fees in an amount in excess of the impact fee rate then-being charged by the County, nor delayed by such process in obtaining building permits and/or certificates of occupancy, as applicable.

3. Marketing Fee. Buyer is required by the terms of the Agreement to pay a marketing fee ("**Marketing Fee**") to Seller or its designated agent on the sale of each Lot and/or home within the Community (whether such home is constructed on a Lot purchased by Buyer from Seller, on a lot purchased from a third party, or on a lot owned by a third party). The Marketing Fee shall consist of an amount equal to one percent (1.0%) of the total price of the Lot and/or home contract, including all options and upgrades. The Marketing Fee shall be paid at the closing of the sale of the Lot with home, or completion of the home if on a lot owned by a third party. Buyer shall deliver to Seller a copy of the closing statement for each such sale along with the Marketing Fee payment. Buyer shall provide to Seller a weekly report of scheduled closings with homebuyers.

4. Right to Repurchase.

(a) Triggering Events. Pursuant to the Agreement, Seller has the right to repurchase the Lots acquired by Buyer in the following events (each a "**Triggering Event**"): (i) Buyer desires to sell any Lot purchased by it hereunder prior to its commencement of construction of a home thereon and without having entered into a written contract to construct a home thereon for the intended purchaser, then as to such Lot; (ii) Buyer fails to complete a Model Home on any Lot within the required timeframe, then as to all Lots then owned by Buyer, except those for which Buyer has a binding written contract for sale to a homebuyer; and (iii) a default by Buyer under the Agreement. As to (i) above, Buyer shall give Seller written notice of its intention to sell any Lot to a third party, and Seller shall have fifteen (15) days to elect by written notification to Buyer whether Seller desires to repurchase the Lot in accordance with this Section. As to (ii) above, Seller shall have thirty (30) days from the date by which completion was required to elect by written notification to Buyer whether to repurchase some or all of the Lots. As to (iii) above, Seller shall have sixty (60) days from the date on which the default occurs, and the Cure Period has passed if applicable, to elect by written notification to Buyer whether or not to purchase all or any of the Lots owned by Buyer. If Seller does not notify Buyer in writing within the applicable time period of its election to purchase the applicable Lot, Seller shall be deemed to have waived its right only as to the applicable Lot and the applicable Triggering Event; provided, however, if the Triggering Event is the sale by Buyer of a Lot in accordance with subsection (i) above, then Seller's waiver or deemed waiver shall be conditioned upon the successor in interest to Buyer assuming in writing at the closing of such sale all of Buyer's continuing obligations under this Agreement as to such Lot, including, without limitation, payment of the Marketing Fee, indemnification obligations, construction activities, purchase of impact fee credits, and otherwise, with such instrument running to the direct benefit of Seller.

(b) Repurchase Closing. If Seller exercises timely its repurchase right under subsection (a) above, then Seller shall specify in its notice a closing date within thirty (30) days of the date of Seller's notice. The repurchase price shall be equal to ninety-five percent (95%) of the Purchase Price paid by Buyer to Seller for such Lot(s) plus an amount equal to one hundred percent (100%) of any Prepaid Fees and Impact Fee Credits purchased from Seller, and shall be payable in cash at the time of closing. Buyer shall pay the costs of title insurance and documentary transfer taxes on the special warranty deed conveying such Lot(s), and Seller shall pay the cost for recording such deed. Buyer shall convey title to the Lot(s) subject only to matters that existed at the time that Buyer acquired the Lot from Seller, and shall re-assign to Seller any impact fee credits assigned by Seller to Buyer at the Closing. All other closing procedures set forth in Section 5(b) of the Agreement shall apply to such repurchase closing.

5. Covenant Running with the Land; Successors and Assigns. The parties acknowledge and agree that the terms of this Declaration specifically touch and concern the use and development of the Property, and, therefore, that the provisions of this Declaration shall constitute covenants running with the land, burdening the Property and binding on any future owner with respect to the Property or any portion thereof (each a "**Future Owner**"), and benefiting Seller and the lands owned by Seller within the Community from time to time, and such successors and assigns as to any property owned by Seller, or any portion thereof, as Seller may designate in writing by an instrument recorded in the Public Records ("**Designated Successor**"). Buyer's Obligations under this Declaration are and shall constitute covenants running with title to the Property, binding on all Future Owners, and, except as related to conveyance of an unimproved Lot as detailed below, each reference herein to "Buyer" shall be deemed to refer to each Future Owner. Notwithstanding the foregoing, Lots within the Property shall be deemed released automatically from the terms and scope of this Declaration upon recordation in the Public Records of a deed conveying to an individual homeowner fee simple title to such Lot improved with a home, provided that the Marketing Fee due is paid to Seller or its Designated Successor pursuant to the Direct Pay Instructions in the form of Exhibit H to the Agreement, and any title insurance company may rely upon the foregoing in issuing title insurance free and clear of this Declaration with respect to such Lot at such time and thereafter. In the event that Buyer conveys any Lot to a third party prior to constructing a single-family residence thereon, and Seller does not exercise its right to repurchase the Lot as more particularly provided above, Buyer shall include a provision in the instrument of conveyance that creates a covenant, running with title to the Lot and enforceable by Seller against Buyer's successors in title to the Lot, that imposes on the Future Owner(s) of the Lot the obligations in this Declaration; upon completion of conveyance of the Lot as evidenced by recordation of a deed from Buyer to such Future Owner, including therein the covenant described above, then Buyer shall be deemed released from any further obligations under this Declaration as to such Lot. Seller may assign its rights under this Declaration, in whole or in part, by recorded instrument to one or more Designated Successors; provided that Seller shall not have the right to assign its rights under this Declaration to any homeowners' association or individual homeowners within the Community.

6. No Third-Party Beneficiaries. Notwithstanding anything to the contrary set forth in this Declaration, this Declaration is for the benefit of Seller, and any Designated Successor only, and may not be relied upon, or enforced by any person or entity other than Seller or its Designated Successor(s).

7. Amendment; Waiver. This Declaration may not be modified or amended without the written consent of Seller or Seller's Designated Successor, on the one hand, and Buyer or any Future Owner, on the other hand. Any such amendment shall be recorded in the Public Records. The failure by Seller or Seller's Designated Successor to enforce any covenant, condition, or restriction set forth herein shall in no event be deemed a waiver of the right to enforce the same or any other breach or violation thereof, and no waiver of any right or obligation hereunder shall be effective unless in writing signed by the party to be charged with such waiver.

8. Effect of Declaration. This Declaration is intended to memorialize the agreement between Seller and Buyer under the Agreement with respect to the matters set forth herein. Nothing in this Declaration is intended to limit Seller's rights under the Agreement, whether or not fully set forth herein as to any other matter, including other provisions of the Agreement, which survive Closing and termination of the Agreement.

9. Termination of Declaration. Notwithstanding anything to the contrary contained herein, this Declaration shall terminate automatically as to each Lot and shall no longer constitute an encumbrance against such Lot upon the first to occur of: (a) the date on which a home has been constructed on the Lot in accordance with the terms of the Agreement, Buyer has closed on the sale of such home to a third party purchaser, and the Marketing Fee due with respect to such Lot has been paid to Seller pursuant to the requirements of the Direct Pay Instructions; or (b) the date of closing on Seller's repurchase of the Lot pursuant to Section 5 above, if Seller elects to so repurchase the Lot. Seller agrees that after this Declaration has automatically terminated as to a Lot pursuant to subsection (a) or (b) above, Seller shall, within ten (10) days after written request from Buyer or any third party purchaser of the Lot, deliver to the requesting party a document in recordable form acknowledging such termination as to the applicable Lot. Requests for such documentation acknowledging termination of this Declaration must be sent to Seller at the address first set forth above, or such other address as Seller may designate by recorded amendment to this Declaration, from time to time. The termination of this Declaration as to any Lot shall not constitute a termination of Buyer's obligations as to such Lot which may survive pursuant to the terms of the Agreement.

10. Notices. Any notice to be given or to be served upon any party hereto in connection with this Agreement must be in writing, and may be given by certified mail, hand delivery or overnight receipt delivery service, and shall be deemed to have been given and received: (a) if given by certified mail, three (3) days after the letter, properly addressed, with postage prepaid, is deposited in the United States mail; or (b) if given by overnight delivery or courier service, when received by the party to whom it is addressed or such party's agent or representative. Such notices shall be given to the parties at the addresses set forth in the preamble to this Declaration.

11. Amendment; Waiver. This Declaration may not be modified or amended without the written consent of Seller, or Seller's designated successor in interest. Any such amendment shall be recorded in the Public Records of the County. The failure by the Seller, or Seller's designated successor in interest, to enforce any covenant, condition, or restriction set forth herein shall in no event be deemed a waiver of the right to enforce the same or any other breach or violation thereof, and no waiver of any right or obligation hereunder shall be effective unless in writing signed by the party to be charged with such waiver.

12. Severability. In the event any provisions hereof should be declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason whatsoever, such illegality, unenforceability, or invalidity shall not affect the remainder of this Declaration.

13. Enforcement. In the event of the breach of any of the provisions set forth in this Declaration, Seller, or Seller's Designated Successor, shall be entitled to all rights and remedies available at law (except for the recovery of special, consequential or punitive damages which are hereby waived) or in equity, including, without limitation, injunctive relief for the immediate and irreparable harm that would be caused by any act or omission by Buyer or any Future Owner to comply with the terms of this Declaration. In the event of any action for enforcement of this Declaration by Seller or its Designated Successors, such enforcing party shall be entitled, in addition to all other relief granted by the court, to a judgment for reasonable attorneys' and legal assistants' fees and costs incurred by reason of such action, and all costs of mediation, arbitration or suit at both the trial and appellate levels.

14. Governing Law and Venue. This Declaration shall be construed by and controlled under the laws of the State of Florida. Venue and jurisdiction for any dispute arising under this Declaration shall be exclusively in the courts located in the County, or the United States District Court for the Middle District of Florida.

15. Jury Trial Waiver. The parties each knowingly, voluntarily and intentionally waive any right which either of them may have to a trial by jury with respect to any litigation or legal proceeding based upon or arising directly, indirectly or otherwise in connection with, out of, related to or from this Declaration including, by way of example but not limitation, any course of conduct, course of dealings, verbal or written statements or acts or omissions of either party which in any way relate to this Declaration. The parties have specifically discussed and negotiated for this waiver and understand the legal consequences of it.

16. Severability. In case any one (1) or more of the provisions contained in this Declaration is found to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein unless such unenforceable provision results in a frustration of the purpose of this Declaration or the failure of consideration.

17. Construction. The parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Declaration and that this Declaration has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Declaration shall not be construed or interpreted for or against any party hereto based upon authorship.

18. Time of the Essence. Time is of the essence in the execution and performance of this Declaration and each of its provisions.

19. Counterparts. This Declaration may be executed by the parties hereto in one or more counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument.

[Signatures on the following pages.]

[Buyer's Signature Page to Declaration]

WITNESSES:

[Signature]
Signature of Witness 1

Alex Allison
Typed/Printed Name of Witness 1

[Signature]
Signature of Witness 2

Chris Stea
Typed/Printed Name of Witness 2

BUYER:

RICHMOND AMERICAN HOMES OF
FLORIDA, LP,
a Colorado limited partnership

By: RAH of Florida, Inc.,
a Colorado corporation
Its: General Partner

By: *[Signature]*
Name: MATTHEW STARK
Title: VP OF LAND ACQUISITION

STATE OF FLORIDA

COUNTY OF Clay

The foregoing instrument was acknowledged before me this 7 day of September, 2018, by Matthew Stark, as VP of Land of RAH of Florida, Inc., a Colorado corporation, as General Partner of RICHMOND AMERICAN HOMES OF FLORIDA, LP, a Colorado limited partnership, on behalf of the entities, (CHECK ONE) /✓/ who is personally known to me or / who has produced a as identification.

[Signature]
Notary Public, State of Florida

Print Name:

My Commission Expires

Notary Seal:

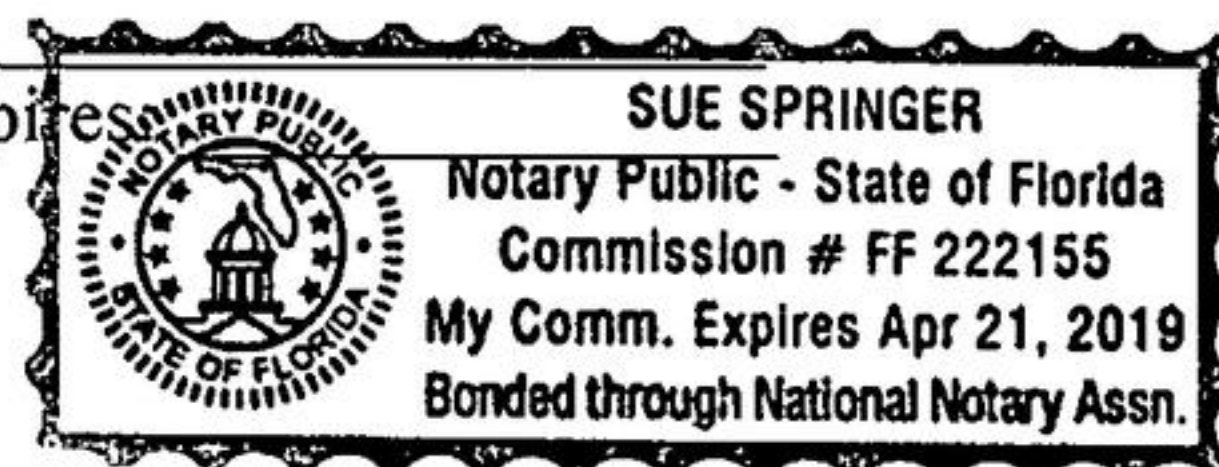


Exhibit "A"

Lots

Lots 50, 51 and 52, Greyhawk Unit 1, according to the Plat thereof, as recorded in Plat Book 60, Pages 50 through 61, inclusive, of the Public Records of Clay County, Florida.