

Prepared by and after recording
return to:

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DECLARATION OF RESTRICTIVE COVENANTS

This DECLARATION OF RESTRICTIVE COVENANTS ("**Declaration**") is made as of September 6, 2019, 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 **LENNAR HOMES, LLC**, a Florida limited liability company ("**Buyer**"), whose address for notice purposes is 9440 Philips Highway, Suite 7, Jacksonville, Florida 32256, 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 July 13, 2017, as amended (collectively, the "**Agreement**"), for the purchase and sale of certain platted lots described therein, including the lots described on **Exhibit A** attached (collectively, the "**Homesites**") within the Greyhawk community ("**Community**") located in unincorporated Clay County ("**County**"), Florida.

B. Contemporaneously herewith, Seller is conveying the Homesites 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 Homesites are subject to certain surviving obligations and agreements between the parties, as described in this Declaration, and the Homesites 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 correct and, together with the exhibits attached hereto, are hereby incorporated into this Declaration. Any capitalized term, not otherwise defined herein, shall have the meaning ascribed to such term under the Agreement.

2. Zoning; DRI; Concept Plans. Buyer acknowledges that the Community is governed by, among other land use restrictions, the Amended and Restated Development Order Conditions for

the Villages of Argyle (“**DRI**”), adopted by the County as Ordinance No. 99-46, as subsequently amended and modified, and 06-33, as evidenced by Notice of Adoption of Ordinance No. 06-33 recorded in Official Records Book 2836, Page 1379 of the public records of Clay County, Florida (“**Public Records**”), as amended hereafter (collectively, the “**DRI DO**”), and PUD Zoning Ordinance No. 2009-49, as heretofore and hereafter amended, commonly referred to as the Argyle PUD (collectively, the “**PUD Zoning**”). Seller discloses to Buyer that third parties own lands included within the DRI and the PUD Zoning that are outside of the Community, and that Seller does not control such lands or such parties, and that such third parties may modify the DRI DO and/or PUD Zoning. Seller shall have the right to revise and modify the Concept Plan, the DRI DO, the PUD Zoning, and other entitlements associated with the Community, from time to time as development progresses, provided that such modifications do not materially and adversely affect Buyer’s ability and cost to construct homes on the Homesites. Buyer covenants and agrees that Buyer shall not object to, or oppose any changes to any such changes sought by Seller, whether associated with the Community or associated with any adjoining lands owned or under the control of Seller or Seller’s affiliates, and Buyer, as landowner, shall execute a consent thereto if requested by Seller; provided that such modifications do not materially and adversely affect Buyer’s ability and cost to construct homes on the Homesites. Buyer shall not seek to modify the PUD Zoning, the DRI DO, or any other entitlements, permits or approvals affecting the Community, nor to re-plat or re-subdivide the Homesites, or any portion thereof, including, without limitation, any Homesite acquired by Buyer. Buyer shall cooperate with Seller in providing to Seller, at no out-of-pocket cost or expense of Buyer, periodic sales information requested by Seller and required to satisfy any reporting requirements under the DRI DO or the PUD Zoning.

3. Impact Fee Credits. Pursuant to Section 7(c) of the Agreement, to the extent that impact fee credits 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 or City.

4. Marketing Fee. Buyer is required by the terms of the Agreement to pay a Marketing Fee, as defined and in the amount set forth in the Agreement, to Seller or its designated agent on the sale of each Homesite and/or home within the Community (whether such home is constructed on a Homesite purchased by Buyer from Seller, on a lot purchased from a third party, or on a lot owned by a third party).

5. True-Up Fee. In addition to the Purchase Price to be paid by Buyer for each Homesite, Buyer is required by the terms of the Agreement to pay to Seller at each closing of a sale thereof by Buyer to a third-party homebuyer a True-Up Fee, as defined and in the amount prescribed by the Agreement.

6. Right to Repurchase.

(a) Triggering Events. Pursuant to the Agreement, Seller shall have the repurchase rights set forth in this Section as to the applicable Homesite(s) in the event (“**Triggering Event**”) that Buyer desires to sell any Homesite prior to Buyer’s construction of a Home thereon without having entered into a written contract to construct a Home thereon for an End Purchaser. If a Triggering Event occurs, Buyer shall give Seller written notice of its intention to sell the applicable Homesite(s), and Seller shall have fifteen (15) days to elect by written notification to Buyer whether Seller desires to

repurchase the applicable Homesite(s), in accordance with this Section. If Seller does not notify Buyer in writing within the applicable time period of its election to purchase the applicable Homesite(s), then Seller shall be deemed to have waived its right only as to such Homesite(s) and the applicable Triggering Event; provided, however, 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 Homesite(s), including, without limitation, 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 2(a), 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 ninety-five percent (95%) of the price paid by Buyer to Seller for such Homesite(s), together with any Prepaid Fees or Impact Fee Credits paid by Buyer to Seller as to such Homesite and plus Buyer's construction and development costs and expenditures for such Homesite(s), 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 Homesite(s), and Seller shall pay the cost for recording such deed. Buyer shall convey title to the Homesite(s) subject only to matters that existed at the time that Buyer acquired the Homesite from Seller or which have been caused by Seller or approved by Seller, and shall re-assign to Seller any Impact Fee Credits assigned to Buyer at the applicable Closing that are applicable to such Homesite(s). All other closing procedures set forth in the Agreement shall apply to such repurchase closing.

7. 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 Homesite as detailed below, each reference herein to "Buyer" shall be deemed to refer to each Future Owner. Notwithstanding the foregoing, Homesites 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 Homesite improved with a home, provided that the applicable Marketing Fee and True-up Fee have been paid to Seller, and any title insurance company may rely upon the foregoing in issuing title insurance free and clear of this Declaration with respect to such Homesite at such time and thereafter. In the event that Buyer conveys any Homesite to a third party prior to constructing a single-family residence thereon, and Seller does not exercise its right to repurchase the Homesite as more particularly provided above, Buyer shall include a provision in the instrument of conveyance that creates a covenant, running with title to the Homesite and enforceable by Seller against Buyer's successors in title to the Homesite, that imposes on the Future Owner(s) of the Homesite the obligations in this Declaration; upon completion of conveyance of the Homesite 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 Homesite. 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.

8. 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).

9. 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.

10. 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 or extend 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 any Closing and termination of the Agreement.

11. Termination of Declaration. Notwithstanding anything to the contrary contained herein, this Declaration shall terminate automatically as to each Homesite and shall no longer constitute a lien or encumbrance against such Homesite upon the first to occur of: (a) the date on which a Home has been constructed on the Homesite in accordance with the terms of the Agreement and Buyer has closed on the sale of such Home to an End Purchaser, and the Marketing Fee and True-Up Fee have been paid to Seller or its designee, as applicable; or (b) the date of closing on Seller's repurchase of the Homesite pursuant to Section 2(b) above, if Seller elects to so repurchase the Homesite. Seller agrees that after this Declaration has automatically terminated as to a Homesite pursuant to subsection (a) or (b) above, Seller shall, within ten (10) days after written request from Buyer or any End Purchaser of the Homesite, deliver to the requesting party a document in recordable form acknowledging such termination as to the applicable Homesite. 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 Homesite shall not constitute a termination of Buyer's obligations as to such Homesite which may survive pursuant to the terms of the Agreement.

12. 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.

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 begin on the following page.]

EXHIBIT "A"

Lots 74, 75, 76, 77, 78, 82, 83, 84, 95, 96, 97, 98, 99, 100, 101, 102, 106, 107, 108, 109, 110, 111, 113, 115, 116, 117, 118, 119, 120, 121, 122, 123 and 124 of 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