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 Varner & Peacock, LLC
 PO Box 8099
 Warner Robins, GA 31095-8099

***DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
 FOR
 RIVERBEND NORTH
 PHASE I***

THIS DECLARATION, made this the 25th day of June, 2021, by ***RIVERBEND NORTH DEVELOPMENT, LLC***, a limited liability company organized and existing under the laws of the State of Georgia having its principal offices and place of business in Houston County, Georgia, hereinafter referred to as the "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Article I, Section 1.2, of this Declaration; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation, protection, and enhancement of the values of such real property, and that certain specific covenants, restrictions, rights, privileges, and easements are necessary to each owner's enjoyment of their individual lot or lots into which such real property described in Article I, Section 1.2, hereof is to be subdivided by Declarant; and

NOW, THEREFORE, the said Declarant hereby declares that all of the real property described in Article I, Section 1.2a, and such additions thereto as may hereafter be made pursuant to Article 1, Section 1.2b, hereof, is and shall be held, transferred, sold, leased, occupied and conveyed subject to the covenants, conditions, restrictions, easements, charges, liens and provisions set forth herein, which shall run with the real property and be binding on all parties having any right, title or interest in and to said real property or any part or portions thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof and, where expressly provided herein shall benefit the Declarant.

**ARTICLE I
 GENERAL PROVISIONS**

1.1 **Definitions.** The following words, when used in this Declaration unless the context shall prohibit, shall have the following meanings:

- a. *"Association"* shall mean and refer to THE RIVER BEND NORTH HOMEOWNERS ASSOCIATION, INC., a non-profit corporation organized and existing under the laws of the State of Georgia.
- b. *"The Properties"* (or *"Properties"*) shall mean and refer to the real property (including improvements) described in Section 1.2a hereof, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Section 1.2b hereof.

- c. "*Declarant*" shall mean and refer to **RIVERBEND NORTH DEVELOPMENT, LLC**, and its successors and assigns, and shall include any person or entity to which Declarant may assign the rights and privileges, duties, and obligations hereunder, which are and shall be assignable.
- d. "*Owner*" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any portion of the Properties, but excluding any person or entity whose interest in the Properties arises pursuant to a deed to secure debt, mortgage, or other similar instrument evidencing or securing indebtedness.
- e. "*Lot*" and/or "*lot*" shall mean and refer to any lot, tract or parcel of land identified as a lot on the recorded subdivision plat described in Exhibit "A" hereto.
- f. "*Future Development Property*" shall mean and refer to other real property now owned or hereafter acquired by the Declarant contiguous to or in the immediate vicinity of the Properties.
- g. "*Architectural Control Committee*" shall mean and refer to those persons appointed by the Declarant, or as hereinafter provided by the majority of the owners, in accordance with the provisions of Article II of this Declaration.
- h. "*Subdivision Survey*" shall mean and refer to the maps or plats of survey of the Properties delineating individual building lots or parcels which is filed for record by the Declarant and recorded on the Deed Records of Houston County, Georgia. Said Subdivision Survey is designated as "RIVER BEND NORTH, PHASE 1" which is of record in Plat Book 82, Page 290, Clerk's Office, Houston Superior Court.
- i. "*Board*" shall mean and refer to the Board of Directors of the Association.
- j. "*Common Area*" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.
- k. "*Common Expenses*" shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration and the By-laws and Articles of Incorporation of the Association.
- l. "*Homeowner*" means a lot owner in which the lot has a permanent structure affixed to the lot and the lot owner is not building on the lot for sale to a third party.
- m. "*Person*" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

- n. *"Structure"* shall mean and refer to (i) anything or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not, limitation, any building or part thereof garage, porch, gazebo, shed, greenhouse, or bathhouse, coop or cage, covered, or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, flagpole, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot; and (ii) any excavation, grading, fill ditch, diversion dam or other thing; object or device which affects or alters the natural flow or surface water from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot.

1.2 **Property Subject to Declaration.**

a. The Properties. The real property covered by this Declaration is described in Exhibit "A", attached hereto, and incorporated herein by reference. For purposes of this Declaration such real property is designated as RIVER BEND NORTH SUBDIVISION. All of the Properties and any right, title or interest therein shall be owned, held, leased, sold, and/or conveyed by Declarant, and any subsequent owner of all or any part thereof, subject to this Declaration and the covenants, restrictions and provisions set forth herein.

b. Additions to Property Subject to Declaration. The Declarant shall have the right to add additional property to the scheme of this Declaration without notice to or the consent of the owners of the several lots comprising the Properties, which shall be accomplished by the filing for record in the County where the land lies of a Supplementary Declaration or Amendment to this Declaration, which shall extend the scheme of the covenants and of this Declaration to such additional property. The additional property to be so added shall be contiguous to The Properties as they are then comprised. PROVIDED HOWEVER, that the Supplementary Declaration or Amendment to this Declaration extending the scheme of this Declaration and the covenants and restrictions contained herein to the property which is so added may not alter or modify the Declaration as it applies to such additional property so as to materially and adversely affect the value of the existing Properties as then comprised. And, PROVIDED FURTHER, that the Supplementary Declaration or Amendment shall not operate so as to render the provisions of this Declaration as applied to such additional property less restrictive than as applied to The Properties prior to such Supplementary Declaration or Amendment. When this Declaration has been so amended by one or more Supplementary Declaration(s), the term, "The Properties" as used herein, shall be deemed to include The Properties described herein together with such additional property as may be added thereby. The term "record title owners" as used herein shall thereafter be deemed to include the record title owners. The Properties described herein together with the record title owners of such additional property as may be added by such Supplementary Declaration(s) or Amendment(s). Each Supplementary Declaration adding properties shall include a geographical description of the property added and shall designate said additional property by a designation, including Section and Phase, so as to differentiate each respective area from other Sections and Phases then included within The Properties.

1.3 **General Easements for Drainage and Utilities.** Until all the lots in RIVER BEND NORTH SUBDIVISION, including all future properties added by Declarant in RIVER BEND NORTH SUBDIVISION, have been fully developed and permanent improvements constructed thereon and sold to permanent residents, Declarant hereby grants, creates, conveys and reserves unto itself and its successors and assigns easements for installation and maintenance of utilities and drainage facilities delineated on the Subdivision survey and over the rear ten feet (10") of each Lot within the Properties. Drainage flow shall not be obstructed, nor be diverted from, drainage or utility easements as designated above or on the aforesaid Subdivision Survey. Such easements shall be for the benefit of the Owners of each Lot and with respect to the Future Development Property the Declarant and its successors and assigns. When all lots in RIVER BEND NORTH SUBDIVISION, including all future properties developed by Declarant in RIVER BEND NORTH SUBDIVISION, shall have been fully developed and permanent improvements constructed thereon and sold to permanent residents, the Association shall have Declarant's rights set forth in this Section.

ARTICLE II

ARCHITECTURAL CONTROL COMMITTEE

2.1 **Designation of Committee.** Initially, this Section of the Subdivision shall have one Architectural Control Committee ("ACC"). After the first lot is sold that has a permanent improvement constructed thereon and sold to a permanent resident, there shall be two Architectural Control Committees for this Section of the Subdivision. The first Architectural Control Committee for this Section ("First ACC") shall consist of three members, which shall be appointed by Declarant. The First ACC shall be the initial ACC for this Section and shall serve as the ACC for all lots that do not have permanent improvements constructed thereon and sold to permanent residents. The Second ACC will be created once the first lot is sold that has a permanent improvement constructed thereon and sold to a permanent resident. The Second ACC shall serve as the ACC for all lots that have permanent improvements constructed thereon and sold to permanent residents. The Second ACC shall consist of three (3) members who shall be natural persons, and who shall be appointed by a majority of the record title owners of the total number of lots then subject to any restrictive covenants in RIVER BEND NORTH SUBDIVISION, voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all such owners at least thirty (30) days in advance and shall set forth the purpose of such meeting and these three members shall be the same three (3) members that are elected for every other section of RIVER BEND NORTH SUBDIVISION; PROVIDED, HOWEVER, until all lots in this section have permanent improvements constructed thereon and sold to permanent residents, the appointment of the members of the Architectural Control Committee must be approved by Declarant (Declarant's successor or assignee pursuant to Section 1.1(b) hereof), and any and all members of such committee may be removed with or without cause by the majority vote of the record title owners of the total number of lots then subject to any restrictive covenants in RIVER BEND NORTH SUBDIVISION or the vote of Declarant, said vote to be conducted in the same manner. When all lots in this Section of RIVER BEND NORTH SUBDIVISION shall have been fully developed and permanent improvements constructed thereon and sold to permanent residents, the Association shall serve as the Architectural Control Committee, appointing three officers of the Association Board to serve annually as the Architectural Control Committee.

2.2 **Initial Membership.** The Members of the First ACC shall be **MARK S. BYRD, MICHELLE LACEY and DYLAN WINGATE**. The mailing address for the Committee shall be

100 Champions Way, Perry, Georgia 31069. A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the First ACC, the Declarant or its heirs or assigns may appoint successor members. For the Second ACC, in the event of a death or resignation of a member, the HOA Board may appoint another member of the HOA to serve as a member. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this Declaration. As of the date of recordation of this Declaration, all privileges, powers, rights, and authority of the Architectural Control Committee shall be vested in the aforementioned persons and exercised by them.

2.3 **Function of Architectural Control Committee.** No improvement, as that term is hereinafter defined, shall be erected, constructed, placed, altered (by addition or deletion), maintained or permitted to remain on any portion of The Properties until plans and specifications as defined in Article II, Section 2.4, in such form and detail as the Architectural Control Committee may deem necessary, shall have been submitted to and approved in writing by such committee. The Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decision of the Architectural Control Committee shall be final, conclusive, and binding upon the applicant.

2.4 **Content of Plans and Specifications.** The plans and specifications to be so submitted and approved shall include the following:

- a. A topographical plat showing existing contour grades and showing the location of all improvements, structures, walks, sidewalks, patios, driveways, fences, and walls. Existing and finished grades shall be shown at lot corners and at corners of proposed improvements. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the lot contours is contemplated.
- b. Exterior Elevations.
- c. Exterior materials, colors, textures, and shapes.
- d. Structural design.
- e. Landscaping plan, including walkways, fences and walls, elevation changes, watering systems vegetation, and ground cover.
- f. Parking area and driveway plan.
- g. Screening, including size, location, and method.
- h. Utility connections.

2.5 **Definition of "Improvement"**. Improvement shall mean and include all buildings and roofed structures, parking areas, loading areas, trackage, fences, walls, hedges, mass plantings, poles, awnings, antennae, driveways, ponds, lakes, swimming pools, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, and any new exterior construction or other exterior improvement. It does not include garden shrub or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expensed in accounting practice and which does not change exterior colors or exterior appearances. It does include both original improvements and all later changes and improvements.

2.6 **Basis of Approval**. Approval of plans and specifications shall be based, among other things, on adequacy of site dimensions, structural design, conformity, and harmony of external design and of location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, and conformity to both the specific and general intent of the protective covenants.

2.7 **Failure of the Committee to Act**. If the Architectural Control Committee fails to approve or to disapprove such plans and specifications or to reject them as being inadequate within thirty (30) days after submittal thereof, it shall be conclusively presumed that such committee has NOT approved such plans and specifications; provided, however, the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances specifically reserved to Declarant. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance.

2.8 **Limitation of Liability**. Neither the Declarant, the Architectural Control Committee, nor any of the members of such committee, shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

ARTICLE III **PROTECTIVE COVENANTS**

3.1 **Applicability of Covenants**. The following provisions shall be applicable to any and all construction, improvement, alteration, or addition to The Properties.

3.2 **Land Use and Building Type**. No lot shall be used except for residential purposes. No residential structure shall be erected, altered, placed, or permitted to remain on any lot other than one (1) single-family dwelling not to exceed two (2) stories in height, and a private two-car garage, and one (1) outbuilding no larger than 30' x 30'. No dwelling shall be allowed unless it includes a private garage for not less than two (2) vehicles. All dwellings shall be constructed with a side entry garage unless lot size and topography dictate a front entry or plaza entry garage. Carriage style garage doors are required on all garages. In addition, all driveways and parking areas shall be constructed with concrete. No structures shall be erected, altered, placed, or permitted to remain on any lot unless same comply with the following:

(a) Foundation Elevation. The top of the foundation shall be a minimum of twelve inches (12") above ground level or grade at its lowest point, or at such higher level as may be necessary to assure positive drainage away from the dwelling and lot.

(b) Roofs. All roofs shall have a pitch of not less than 12/12 and only architectural shingles in black, weatherwood, or blackwood colors shall be allowed.

(c) Exterior Siding. The exterior of all dwellings from the bottom of the foundation to the top plate shall be constructed of ninety percent (90%) brick, with the other ten percent (10%) being in the form of accents of stucco, stacked stone, or cedar, unless otherwise approved by the Architectural Control Committee.

(d) Fences. No chain link fencing shall be allowed. All Lots shall have a six-foot (6') wood fence erected. Fence shall have "classic mold style" on the front portion that faces the street, and standard "dog-ear style" on sides and back that does not face street. If constructed on a corner lot, the fence must be "classic mold style" on all sides facing any street. No other type fence or wall shall be allowed on any lot (a) in the front yard or any nearer to the street or road right-of-way line than ten feet (10') to the rear corners of the residence (exclusive of open porches), (b) any nearer to a side street right-of-way line than the minimum building setback line along such side street right-of-way line, and (c) having posts or support members visible from adjacent streets or lots. An adjoining lot shall be required to adjoin the current fence so as not to create any alleyways or passageways. The front and inside of all fences, if stained at all, shall be stained a color that is harmonious with the color pallet of the home. The exterior of the fence that will become the inside of the adjoining homes' fence shall be stained to match the adjoining home if it is stained at all. On corner lots, the side without an adjoining home may be stained on the exterior to match the color pallet of the home on which it is installed. The Developer reserves the right to fence in any headwall or drainage easement to conceal these areas. Fences must be no more than five feet (5') off the rear corners of the residence, unless otherwise approved (in writing) by the Architectural Control Committee.

(e) Outbuildings. All storage or outbuildings shall be constructed with a 12/12 roof and must have a minimum brick front and brick skirt on three (3) sides. All out buildings shall conform to all applicable code requirements and must have the same materials, colors, and architectural design as the main structure.

3.3 Minimum Dwelling Size. No dwelling shall be permitted on any such lots in the Subdivision, unless prior written approval of the same is received from the Architectural Control Committee as herein otherwise provided and shall have not less than 2,850 square feet of Living Space.

3.4 Building Location. No building shall be located on any lot nearer to the front line or nearer

to the side street line than the minimum building setback line shown on the aforementioned recorded plat of survey. No building or structure or any part thereof (including the dwelling and any detached garage or outbuilding) shall be erected or maintained nearer the side or rear boundary lines of any lot than the minimum setback distance required under the regulations imposed by the governmental authority having jurisdiction. For the purpose of this covenant, eaves, steps, carports, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

3.5 **Subdivision of Lots: Use as Access.** None of the lots shall at any time be divided into as many as two (2) building sites and no building site shall be less than the area of the smallest lot platted in the block of which the building site is a part. A single lot together with contiguous portion or portions of one or more lots in the same block may be used for one building site, and no building or structure or any part thereof shall be erected or maintained nearer the side boundary lines or such integral unit than ten feet (10'). No lot, or any portion thereof, may be used as a road, street, or in any manner for the purpose of providing access to other property without the prior written approval of Declarant.

3.6 **Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Drainage flow shall not be obstructed, nor be diverted from drainage or utility easements as designated above or on the aforesaid recorded plat of survey.

3.7 **Nuisances.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood.

3.8 **Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently, unless approved by the Architectural Control Committee.

3.9 **Signs.** No sign of any kind shall be displayed to the public view on any lot, except the professional sign of a licensed real estate sales broker or agency advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period, unless otherwise approved.

3.10 **Vehicle Storage.** No motorhomes, campers, camper-trailers, boats, boat trailers, or other recreational vehicles, and no trucks exceeding 3/4-ton, shall be kept or stored on any part of any of said lots except (i) within an enclosed garage or, (ii) at a location on the lot which shall be so placed and screened, and kept, so as not to be visible from any street or lot within the subdivision or adjacent to the subdivision. Any fencing or screening for such vehicles shall require the prior approval of the Architectural Control Committee.

3.11 **Headwalls and Driveways.** Any other provision contained herein notwithstanding, any headwall placed on any of said lots shall be constructed of common brick and all driveways shall be constructed and made of concrete. All of said lots shall have said driveways and the same shall be a minimum width of twelve feet (12') and shall run from the paving of the road to the minimum building setback line for the respective lots.

3.12 **Satellite Dishes.** No Satellite dishes, outside antennae or other similar structures designed for the reception of television or radio signals shall be placed on any lot, unless same shall be so placed and screened, and kept, so as not to be visible from any street or lot within the subdivision or adjacent to the subdivision. Any fencing or screening for such antennae shall require the prior approval of the Architectural Control Committee.

3.13 **Basketball Goals and Playground Equipment.** To provide uniformity and aesthetic appearance, all playground equipment shall be placed, maintained, and confined to the backyard of the home site. There shall be no basketball goals of a permanent nature erected or installed in the front yard or in the driveway of any home within the subdivision. Portable basketball goals will be allowed, BUT must be kept behind the end of the driveway opposite any main subdivision street when not in use. Portable basketball goals must never be within twenty feet (20') of the street whether in use or not. Any portable basketball goal that is not stored correctly when not in use, or that is placed within twenty feet (20') of the street will be considered a violation, and the Homeowner will be notified in writing to immediately remove the basketball goal from their residence within seven (7) days of the notice.

3.14 **Swimming Pools.** Above ground swimming pools shall not be permitted. Swimming pool type and location shall be approved by the ACC and the Houston County Environmental Health Department, or other applicable regulatory agency.

3.15 **Window Air Conditioning Units.** Window air conditioning units shall not be permitted.

3.16 **Oil and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

3.17 **Livestock and Poultry and Pets.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes. However, no animals shall be kept on any lot in such manner as creates a nuisance or disturbance to the other lot owners, or violate any law, ordinance or regulation of the State of Georgia and/or any other county or municipal government or other applicable regulatory or governmental agency having jurisdiction.

3.18 **Garbage and Refuse Disposal.** No lot shall be used or maintained as dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators and other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Every outdoor receptacle for ashes, trash, rubbish, or garbage shall be installed at a location on the lot which

shall be so placed and screened, and kept, so as not to be visible from any street within the subdivision or adjacent to the subdivision, at any time, except at the times when refuse collections are being made. Any fencing or screening required for said receptacle shall be approved by the Architectural Control Committee.

3.19 **Sewage Disposal.** No individual sewage-disposal system shall be permitted on any lot unless such system is designated, located and constructed in accordance with the requirements, standards, and recommendations of the Georgia Department of Public Health. Approval of such systems as installed shall be obtained from such authority.

3.20 **Sight and Distance at Intersections.** No Fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property line and a line connecting them at points twenty-five feet (25') from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten feet (10') from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

3.21 **Landscaping.** When clearing lots for construction, all hardwood trees of a diameter of twelve inches (12") or more shall remain unless written approval for the tree removal is obtained from the Architectural Control Committee. Said restriction shall not include necessary removal of trees for home, outbuildings, or pool site location.

The builder, contractor, or owner of each residential lot shall certify to the ACC at the completion of the residence erected on each said lot that a minimum of **\$1,500.00** cost to said builder, contractor, or owner has been expended on the shrubbery on each lot within the Subdivision. Said cost to be based on the costs prevailing at this time of the execution of these covenants. Said costs shall not include the clearing and preparing of the lot for construction of the improvements, but shall be limited to amounts expended for the finish work required in landscaping, so as to provide landscaping which will enhance the appearance of said lot and subdivision. In addition to the **\$1,500.00** minimum required for shrubbery, each builder, contractor, or owner of each lot under one half (1/2) of an acre in size shall irrigate and sod the entire lot with centipede grass. On any lot over one half (1/2) of an acre in size, owner shall irrigate and sod a minimum of the front, side, and rear yards equal to the approximate size of one half (1/2) of an acre lot. All flowerbeds shall have either pinestraw, mulch or approved rock. No white or bright white rocks shall be allowed in any flowerbeds in the front or side yards.

3.22 **Diligence.** The residence to be constructed on each lot in the subdivision shall be completed in a good and workmanlike manner, and shall be completed within nine (9) months after the beginning of the framing for such construction. No improvements, which have been partially or totally destroyed by fire or other catastrophe, shall be allowed to remain on any lot in the subdivision for more than three (3) months after such destruction or damage.

3.23 **Variances.** Subject to the provisions of this Declaration limiting the right to amend or vary the terms and conditions hereof, the restrictions set out in this instrument may be altered, varied, or waived

on an individual lot basis upon compliance with the following regulations and procedures, to-wit:

- (a) Any owner of any lot in said section desirous of securing a waiver or variance of said restriction shall request the same in writing and shall deliver said petition to any member of the Architectural Control Committee hereinbefore named;
- (b) If the Architectural Control Committee, in the exercise of its sole discretion, approves of said variance, it shall notify the petitioner of the same in writing;
- (c) The written approval of any requested alteration or variance by the Architectural Control Committee shall constitute absolute waiver of and shall otherwise void the restrictions contained in this paragraph relative to the subject lot;
- (d) The waiver of the restrictions contained in this paragraph on any petitioned lot shall not constitute a waiver of said restriction on any other lot; and
- (e) Unless the written approval as outlined herein is secured, the restrictions contained in this paragraph shall be binding and of full force and effect. Provided, further that if the Architectural Control Committee fails to notify the petitioning landowner of its approval within thirty (30) days of its receipt of the request, said request shall be deemed to have been denied.

ARTICLE IV **MAINTENANCE**

4.1 **Duty of Maintenance.** Owners and occupants (including Lessees) of any part of The Properties shall jointly and severally have the duty and responsibility, at their sole cost and expense, to be that of the Properties so owned or occupied, including buildings, improvements, and grounds in connection therewith, in a well maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to the following:

- a. Prompt removal of all litter, trash, refuse, non-permitted vehicles, and wastes;
- b. Lawn mowing;
- c. Tree and shrub pruning;
- d. Keeping lawn and garden areas alive, free of weeds, and attractive;
- e. Watering;
- f. Keeping parking areas, driveways, and roads in good repair;
- g. Complying with all government health and police requirements;
- h. Repainting of improvements; and
- i. Repair of exterior damages to improvements.

4.2 **Enforcement.** If, in the opinion of the Association, any such owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association may give such person written

notice of such failure and such person must, within ten (10) days after receiving such notice, perform the maintenance duty or responsibility required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, acting through its authorized agent or agents, shall have the right and power (but not the obligation) to enter onto the premises and perform such maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The owners and occupants (including lessees) of the lot or lots on which such work is performed shall be jointly and severally liable for the cost of the maintenance duties and responsibilities performed by the Association, and shall promptly reimburse the Association for such cost. If such owner or occupant shall fail to reimburse the Association within thirty (30) days after the receipt of a statement for such work from the Association, then said indebtedness shall be a debt of all of said persons jointly and severally, and shall constitute a lien against the lot or lots on which said maintenance was performed. If the Association incurs any legal fees in enforcing any provision in this Section, the owner shall pay the Association's attorney's fees and court costs associated with enforcement of this Section. If a lien is placed on the owner's property as a result of enforcement of this section, the lien shall include the cost of any attorney's fees and court costs.

ARTICLE V **ASSESSMENTS**

5.01 **Membership and Board.** Every Owner of a Lot which is subject to this Declaration and any and all owners of lots in future properties added to RIVER BEND NORTH SUBDIVISION by Declarant shall be a mandatory member of the Association. The Association shall be a master association, encompassing owners in all phases and sections of RIVER BEND NORTH SUBDIVISION. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to any Owner's successor-in-title to the Lot. The Association shall be governed by a Board of Directors. The Board of Directors shall have five (5) members. The members on the Board must be Class A members, as defined *infra*, and there cannot be two (2) individuals who are owners of the same lot on the Board at the same time.

5.02 **Voting Rights.** The Association shall have two (2) classes of voting membership, as follows:

(a) **Class A.** The Class A members shall be all Homeowners, and shall be entitled to one vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such Persons shall be members. The votes for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) **Class B.** The Class B members shall be the Declarant or any Lot owned by a person or legal entity regularly engaged in the business of constructing single-family residences who is the first transferee or grantee of title to such Lot from the Declarant, and who acquires title to such lot within the Subdivision for the purpose of constructing a residence thereon, (i) pursuant to a contract with a person intending to reside in same as a principal residence (a "presold" home), or (ii) for resale without a binding

sales contract at the time construction commences (a "spec" home). Provided however, that the exemption set forth in this paragraph shall terminate at such time as any residence constructed on a lot within the Subdivision is occupied, or eighteen (18) months from the date of such transfer, whichever occurs first. If the Class B Members are entitled to vote, the Class B Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such Persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

The Class B membership shall cease and be converted to Class A membership when all the Lots in all phases of the Subdivision are owned by Homeowners or occupied for eighteen (18) months, whichever event occurs first. Class B Members will not have any voting rights in the Association unless the Class B Member is being requested to pay a special assessment.

5.03 **Members Ease of Enjoyment.** Subject to the provisions herein, every member of the Association shall have a right and easement of use and enjoyment in and to the Common Area (including, without limitation, the right of pedestrian (but no vehicular) access, ingress and egress to and from his Lot over those portions of the Common Area from time to time designated for such purposes, which right of use of such recreational facilities as may be erected and maintained by the Association for such purposes from time to time), which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

(a) the right of the Association to adopt and publish rules and regulations governing the use of the Common Area.

(b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility now or hereafter located or constructed upon the Common Area and to impose reasonable limits on the number of guests who may use such recreational facilities.

(c) the right of the Association to suspend any Owner's voting rights and right to use any recreational facility within the Common Area for any period during which any assessment of the Association against said Owner's Lot remains unpaid.

(d) The right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, or constructing, repairing, or improving any facilities located or to be located thereon and, upon the assent of two-thirds of the Class A and Class B members, if any, to give as security a mortgage conveying all or any portion of the Common Area. The lien and encumbrances of any such mortgage, however, shall be subject and subordinate to all rights, interests, easements, and privileges herein reserved or established for the benefit of any Owner, or the holder of any mortgage, irrespective of when executed, given by any Owner.

(e) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer has been recorded.

(f) the easements reserved in Sections 5.14 and 5.15 of this Declaration.

5.04 **Declaration of Use.** Any Owner may delegate, in accordance with the by-laws, his right or use and enjoyment in and to the Common Area and the improvements thereon, if any, to the members of his family, his tenants, guests, and invitees, subject to such regulations as may be established from time to time by the Association.

5.05 **Title to Common Area.** The Association may purchase or accept as a conveyance, both real and personal, property for the common use and enjoyment of the Owners. Notwithstanding any legal presumption to the contrary, the fee simple title to such real and personal property designated as Common Area or for public use, together with all rights therein, shall be reserved to the Association or to any municipality or other government body, agency, or authority.

5.06 **No Partition.** There shall be no judicial partition of the Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the Property has been removed from the provisions of this Declaration.

5.07 **Covenant for Assessments.** The Declarant for each Lot owned by it within the Subdivision, hereby covenants, and each subsequent Owner of any such Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other instrument of conveyance, shall be deemed to covenant to pay the following general and special assessments, to-wit:

5.07.1 **Special Assessment on Sale to Declarant.** A special assessment in the amount of \$500.00 shall be paid upon each conveyance of each lot in the subdivision, beginning with the conveyance from the Declarant to any purchaser. There shall be exempt from this assessment any conveyance to Wingate Custom Homes LLC, and each general contractor engaged in the business of residential construction who does not intend to occupy the property conveyed. Thereafter, upon each conveyance of any lot, there shall be a special assessment due in the amount of \$500.00 to be paid by the Purchaser. The assessment shall be held and invested by the Declarant/Association for the purposes and uses hereinafter set forth.

5.07.2 **General Assessment to the Association.** Except for the lots owned by Declarant and/or the Developer, Wingate Custom Homes LLC, each Owner who is not a Class B Member shall be assessed and pay to the Association a proportionate share of the actual costs incurred for maintenance, installation, repair, replacement and operation of the following (including without limitation thereto the cost of utilities, third-party contracts for maintenance, repair or replacement): (i) Subdivision entrances and planted buffers including, but without limitation thereto, shrubbery, signage (including decorative street signs), fences, buildings, improvements, equipment, irrigation systems, security lights, and other similar improvements enhancing the entrances to the Subdivision which are not maintained by any governmental authority or agency, including, but without limitation thereto, areas set aside by the Declarant for common usage and maintenance for the Properties; (ii) streets, sidewalks and pedestrian walking/jogging areas located within the rights-of-way of the public streets within the Subdivision to the extent that same are not maintained by any governmental authority or agency; (iii) purchase of insurance by the Association; (iv) the repair and replacement of improvements on the Common Area; (v) payment

of all insurance premiums and all costs and expenses incidental in the operation and administration of the Association and establishment and maintenance of a reasonable reserve fund or funds; and (vi) property taxes and assessments imposed by any governmental authority with respect to the foregoing.

5.07.3 **Maintenance Assessment.** Each Owner shall be assessed and pay to the Association any costs, including attorney's fees and court costs, incurred by the Declarant or Association in the performance of maintenance of an Owner's Lot or Lots pursuant to Article IV *supra*.

5.08 **Purpose of General Assessments.** The assessments levied and collected by the Association pursuant to Section 5.07 of this Article shall be held, invested, and disbursed by the Association for the uses and purposes described in Section 5.07.2 above or such further purposes promoting the comfort, health, safety, and welfare of the Owners of Lots in the Properties as may be determined by the Association.

5.09 **Management and Investment of Funds.** The assessments shall be collected by the Association and maintained in one or more certificates of deposit, money market account, or other interest-bearing deposit in a banking institution whose deposits are insured by the Federal Deposit Insurance Corporation or Federal Savings & Loan Insurance Corporation, and disbursed by the Association when needed to pay the costs and expenses contemplated hereby. The Association shall provide an accounting of the receipt and disbursement of the funds upon the reasonable request of a Lot Owner, but shall not be required to furnish such information more than once during each calendar year.

5.10 **Assessment Procedure.**

5.10.1 **Annual Assessment.** If the Association incurs ongoing Common Expenses, it shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expenses of operating the Association for the coming year, such budget to include a capital contribution of reserve account in accordance with the capital needs of the Association. The budget and the proposed annual assessments to be levied against each Lot shall be delivered to each Owner no later than ten (10) days prior to such annual meeting. The annual assessments shall be equally divided among the Class A Members so that the annual assessments shall be the same for each Class A Member. Lots owned by Class B Members, who are not subject to assessments, shall not be considered when determining the assessment for each Lot.

5.10.2 **Owners Right to Dispute Assessment.** The budget and the annual assessments shall become effective unless disapproved at the annual meeting by a majority vote of the Owners voting in person or proxy at such meeting. A majority of the Owners must disapprove the proposed budget and not simply a majority of the

Owners present at the meeting. In the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, and then until a budget has been determined as provided for herein, the budget and annual assessments in effect for the then current year shall continue for the succeeding year. If the assessment is approved, then it shall be binding and enforceable against each Owner. If any budget at any time is disapproved, the Board may call a meeting of the Association for the purpose of proposing another budget, as long as the meeting and the proposed budget are presented to the Owners more than thirty (30) days before the date in which the Lot Assessment is due.

5.10.3 **Due Date of Assessments.** The Lot Assessment Amount for each calendar year shall be payable on **February 15th**, not to exceed **\$350.00** of the preceding calendar year. Assessments shall be prorated from the date on which the dwelling located on the Lot is first occupied by an Owner or tenant of such Owner. Any assessment, or portion thereof, not paid when due shall be delinquent. If the same is not paid within five (5) days after the due date, then a late charge equal to ten percent (10%) of the amount thereof or **\$25.00**, whichever is greater, shall also be due and payable to the Association. Any assessment or portion thereof not paid when due shall bear interest from the date of delinquency until paid at the maximum legal rate applicable to judgments in the State of Georgia.

5.10.4 **Creation of the Lien and Owner's Personal Obligation for Assessments.** Each Owner of any Lot, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay the assessments which shall be fixed, established and collected from time to time as herein provided. Such assessments, together with such interest thereon, late payment charge, and attorney's fees and costs of collection thereof as herein provided, shall be a charge on and a continuing lien upon the Lot against which each such assessment is made. Such lien shall be perfected by filing of record in the office of the Clerk of Superior Court of the County in which the Lot is located a claim of lien at any time after the assessment, or portion thereof, becomes delinquent. The claim of lien shall be substantially in the same manner and form as is applicable to claims of lien for labor, materials or services provided in the improvement of real property under Title 44 of the Official Code of Georgia. Such a claim of lien shall also secure all assessments, or portions thereof, which come due thereafter until the claim of lien is cancelled of record. Also, each Owner shall be personally liable for the portion of any assessment coming due while he is the Owner of a Lot, and his grantee shall be jointly and severally liable for such any assessment imposed but unpaid at the time of a conveyance, but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor. Provided, however, any person who becomes the Owner of a Lot as purchaser at a judicial or foreclosure sale conducted with respect to an Institutional Mortgage, or pursuant to any proceeding in lieu of the foreclosure of such mortgage, shall be liable only for assessments coming due after the date such person so acquires title to the Lot.

5.10.5 **Special Assessments.** The Board can determine whether a special assessment

will be for Class A members only or for Class A and Class B members. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of at least two thirds (2/3) of the Class A members if the assessment is only for Class A members, and, if the assessment is for Class A and Class B members, at least eighty percent (80%) of Class A and Class B members, voting in person or by proxy at a meeting duly called for such a purpose. Special assessments may also be levied by the Association if for any reason the annual assessments prove inadequate to defray the expenses of the Association in fulfilling its duties and obligations hereunder, subject to the consent of the Class A members as set forth above.

5.10.6 **Notice and Quorum for Any Action Authorized Under Section 5.** Written notice of any meeting called for the purpose of taking any action authorized under Section 5.10 shall be sent to all members not less than ten (10) days, nor more than thirty (30) days, in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half of the required quorums at the preceding meeting. No such subsequent meeting shall be held more than 60 (sixty) days following the preceding meeting.

5.11 **Remedies for Nonpayment of Assessments.** All sums assessed in the manner provided in this paragraph but unpaid, together with interest and costs as provided in this paragraph, shall become a continuing lien and charge on the property covered by such assessment, which shall bind such property in the hands of the owner(s) and his heirs, devisees, personal representatives, and assigns. The aforementioned lien shall be superior to all other liens and charges against the property, except only for tax liens and all sums unpaid on a first mortgage lien or first lien security deed of record, securing in either instance sums borrowed for the acquisition or improvement of the property securing the loan. The Declarant/Association shall have the power to subordinate the aforementioned assessment lien to any other lien. Such power of subordination shall be entirely discretionary with the Declarant/Association. The Association may suspend any voting rights of the Owner during the period in which any assessment payable by such Owner, or portion thereof, remains unpaid and may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against such Owner's Lot. In any foreclosure proceeding, whether judicial or non-judicial, the owner(s) shall be required to pay the costs, expense and reasonable attorney's fees incurred. The Declarant/Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with same. Upon the written request of any mortgagee holding a prior lien on any part of the Subdivision, the Declarant/Association shall report to said mortgagee any unpaid assessments remaining unpaid for longer than thirty (30) days after the same are due. Any legal action brought by the Association to enforce such lien against such Lot shall be commenced within one (1) year from the time the assessment became due. Failure to bring such an action within such time shall cause the lien to be extinguished as to

such assessment, or portion thereof, more than one (1) year past due, but shall not bar an action against the Owner(s) obligated to pay the same in accordance with the provisions hereof. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

5.12 **Exemptions.** The assessments provided for herein shall not be applicable to any sale of a lot, tract or parcel of the Subdivision made by a mortgagee who has financed the acquisition of, or improvements to, the subject Lot(s), whether such sale is made by the mortgagee in exercise of its rights under the foreclosure provisions of its security deed or is made by the mortgagee who has acquired the property as a result of such exercise of its foreclosure rights in order to dispose of the property subsequent to foreclosure.

It is further provided that the assessments provided for herein, except special assessments, shall not be applicable to any Lot owned by the Declarant, nor to any Lot owned by a person or legal entity regularly engaged in the business of constructing single-family residences who is the first transferee or grantee of title to such Lot from the Declarant, and who acquires title to such lot within the Subdivision for the purpose of constructing a residence thereon, (i) pursuant to a contract with a person intending to reside in same as a principal residence (a "presold" home), or (ii) for resale without a binding sales contract at the time construction commences (a "spec" home). Provided however, that the exemption set forth in this paragraph shall terminate at such time as any residence constructed on a lot within the Subdivision is occupied, or eighteen (18) months from the date of such transfer, whichever occurs first.

It is further provided that the following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use, (b) all Common Areas, (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption; and (d) all Class B Members provided that the assessment is not a special assessment approved by two-thirds of the Class A and Class B members.

5.13 **Association's Responsibility.** Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Area and improvements thereon, if any. The Association's responsibility with the respect to the Common Area shall be deemed to include the maintenance, repair, and replacement of, (i) all roads, driveways, walks, parking areas and building and other improvements, if any, situated within the Common Area; (ii) such utility lines, pipes, plumbing, wire, conduits and systems which are a part of the Common Area; and (iii) all lawns, trees, shrubs, hedges, grass, and other landscaping situated within or upon the Common Area. The Association shall accept all Common Areas dedicated to or given to the Association by the Declarant.

5.14 **Utility Easements.** There is hereby created in favor of the Association an easement upon, across, over, through and under all of the Common Areas for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including, but not limited to water, sewers, gas, telephones, electricity, television, cable or communications, lines, and systems. An easement is further granted to the Association, its officers, agents, employees, and any management company retained by the Association, to enter in or to cross over the Common Areas and the Lots, to inspect and to perform the duties of maintenance and repair of the Common Areas and the Lots, as provided herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines

or other utilities may be installed or relocated on the property, except as initially programmed and approved by the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement be a separate recordable document, the Association shall have the right to grant such easement on the Common Area without conflicting with the terms hereof.

5.15 **Easements for the Association.** There shall be a general right and easement for the benefit of the Association, its directors, officers, agents, and employees, including any management, company retained by the Association, to enter upon the Common Area and the exterior of any permanent improvements on the Lots to perform their respective duties. Owners hereby grant to the Association the following easements and right of ways in, on, over, under and through any part of the Property owned by the Association:

- (a) for the erection, installation, construction and maintenance of wires, lines, and conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, telephone, community antenna, television cables and other utilities to the Common Areas;
- (b) for the construction of improvements on the Common Areas;
- (c) for the maintenance of such other facilities and equipment as in the sole discretion of the Association may be reasonably required, convenient or incidental to the completion and improvements of the Common Areas.

5.16 **Insurance.** The Board, or its duly authorized agent, shall obtain such insurance policies upon the Common Areas as the Board deems necessary or desirable in its sole discretion, the named insured on all policies of insurance shall be the Association.

5.17 **Notice and Quorum for Meetings.** Except for meetings taken with respect to the approval and/or disapproval of a general assessment or a special assessment, whenever this Declaration provides for a meeting of the record title owners of the lots or parcels comprising the Properties, such meeting may be called for the specified purpose on the request of the record title owners of not less than twenty percent (20%) of the lot or lots then comprising the Properties subject to this Declaration. This request shall be delivered to the Association. "Notice" for the purposes of this Declaration shall be deemed to have been given when deposited with the United States Postal Service for mailing by First Class Mail, Registered or Certified, with adequate postage thereon to assure delivery, addressed to the Association. The receipt of the Postal Service for such mailing will be deemed sufficient proof of mailing, and such Notice shall be deemed to have been delivered on the third (3rd) business day following its mailing. The Association shall give all Owners notice of any meetings not less than ten (10) days, nor more than thirty (30) days before a meeting. The presence of twenty percent (20%) of the Class A Owners shall constitute a quorum. The vote of all the Owners entitled to vote at the meeting, voting in person or by proxy, shall be binding on the Owners and the Association.

5.18 **Notice and Quorum for Elections.** Once the covenants are recorded, the Declarant will solicit candidates for the board of the Association. Lot owners, by signature of these covenants, acknowledge that they each have the right to be a board member of the Association and that they each should contact the Declarant upon signing of the covenants to nominate themselves for a board position if

a position is desired. Within sixty (60) days from the recording of these amended covenants, the Declarant will send ballots to all Class A Members for the election of the Board of the Association. Provision of a ballot to elect the initial Board of the Association shall be provided by the Declarant. Provision of the ballot for the initial election shall be deemed to have been given when hand delivered, placed in the class A Member's mailbox, or, if the Class A Member does not currently occupy the lot in the subdivision, when deposited with the United States Postal Service for mailing by First Class Mail, Registered or Certified, with adequate postage thereon to assure delivery to the owner. The election ballots shall be distributed by the Declarant at least ten (10) days before an election ballot is due. In each ballot, Declarant will list all the candidates for the Board, which number shall be at least five (5) candidates. Declarant shall provide in the ballot a method for the ballots to be returned to the Declarant. There is no required quorum for the election of the initial Board. Each lot owner who is a Class A Member shall be allowed to vote for five (5) candidates in the election of the initial Board. There shall only be one (1) ballot allowed per lot, such that if there is more than one (1) owner of a lot, the owners of that lot can only submit one ballot for the initial board election. The top five (5) candidates receiving the most number of votes for the Board positions shall be elected to the Board. The Board of the Association shall have the right to approve and sign the Association Bylaws and designate which Board members hold which offices and set the procedure for the election or succession of future board members. The Bylaws must require that only one (1) ballot per lot of a Class A member will be allowed for future board elections.

ARTICLE VI

MISCELLANEOUS PROVISIONS

6.1 **Duration.** This Declaration and the covenants, restrictions and provisions set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Committee and every owner of any part of The Properties, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded, and continuing through and including December 31, 2040 (the "Initial Term"), after which time said covenants shall be automatically extended for successive periods (each an "Extended Term") in accordance with the provisions of *O.C.G.A. § 44-5-60(d)(1)* in effect at the end of the Initial Term, unless then or thereafter terminated by the persons then owning the Lots in accordance with the provisions of *O.C.G.A. § 44-5-60(d)(2)* then in effect. In the event that said code provisions have been revoked or rescinded by subsequent act of the Legislature, then the provisions in effect as of the date of recording of this Declaration shall apply for such purposes of extending or terminating the covenants set forth herein.

6.2 **Amendments.** This Declaration may be amended during the Initial Term (as defined in Section 6.1 hereof) an instrument adopting such amendment signed by the record title owners of at least ninety percent (90%) of all of the lots comprising the Properties, and thereafter by an instrument signed by the record title owners of at least seventy-five percent (75%) of all of the lots comprising the Properties.

6.3 **Enforcement.** The Declarant, the Architectural Control Committee and/or the Association shall have the right (but not the duty) to enforce any of the covenants and restrictions set out in any Declaration hereafter filed by Declarant or any subsequent owner. Enforcement of the covenants and restrictions can be by any fines assessed by the ACC or Board, as said fines and violations are set forth by the Board or ACC resolution. The Board or ACC shall have the right to determine what form of

notice and opportunity to cure the owner shall have before fines are assessed. Alternatively, enforcement of the covenants and restrictions can be by any proceeding at law or in equity against any persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land, to enforce any lien created by these covenants and failure by the Declarant, the Committee, or any owner to enforce any such covenant or restriction shall in no event be deemed a waiver of the right to do so thereafter. Any owner in violation of the Declaration shall pay reasonable attorney's fees and expenses of the Declarant, the Architectural Control Committee or the Association in any actions taken to enforce the Declaration, including the levy of a fine. Any such costs of enforcement or levying of fines shall constitute a lien on the property of the owner violating the Declaration.

6.4 **Severability of Provisions.** If any paragraph, section, sentence, clause, or phrase of the Declaration shall be or become illegal, null, or void for any reason, or shall be held by any court of competent jurisdiction to be illegal, null, or void, the remaining paragraphs, sections, sentences, clauses, or phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses, or phrases shall become or be illegal, null or void.

6.5 **Titles.** The titles, headings, and captions used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

IN WITNESS WHEREOF, the undersigned Declarant has set its hand and affixed its seal to these presents as of the day and year first written above.

**RIVERBEND NORTH DEVELOPMENT,
LLC**

Signed, sealed and delivered in the presence of:

Melanie Green

Unofficial Witness

[Signature]

Notary Public



MS Byrd (SEAL)
By: **MARK S. BYRD**
Title: **Managing Member**

(ADDITIONAL SIGNATURES ON FOLLOWING PAGE)

APPROVED:

MORRIS BANK

Signed, sealed and delivered in the presence of:

Alexa Dupuis

Unofficial Witness

Theresa Meyer

Notary Public

[Signature] (SEAL)

By: [Signature]
Title: Commercial Lender

Attest: _____ (SEAL)

Title:



EXHIBIT "A"
(Legal Description)

All that tract or parcel of land, situate, lying and being in Land Lot 75 of the Eleventh (11th) Land District of Houston County, Georgia, being known and designated as ALL lots in RIVER BEND NORTH SUBDIVISION, PHASE 1, according to plat of said subdivision prepared by McLeod Surveying, certified by Marty A. McLeod, Georgia Registered Land Surveyor No. 2991, dated May 26, 2021, being revised on June 24, 2021, filed of record in Plat Book 82, Page 290, Clerk's Office, Houston Superior Court. Said plat and the record thereof is incorporated herein by reference for all purposes.

*This instrument prepared by and after
recordation is to be returned to:*

*Varner & Peacock, LLC
P.O. Box 8099
Warner Robins, GA 31095*

***MODIFICATION OF DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
RIVER BEND NORTH, PHASE 1***

STATE OF GEORGIA
COUNTY OF HOUSTON

THIS DECLARATION OF MODIFICATION OF PROTECTIVE COVENANTS made and published the 13th day of April, 2022, by ***RIVERBEND NORTH DEVELOPMENT, LLC***, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, *Riverbend North Development, LLC*, is owner and developer of a subdivision known as River Bend North, Phase 1; and

WHEREAS Protective Covenants appear of record covering said subdivision; and

WHEREAS Declarant, for the purpose of conforming said covenants to Declarant's intention, desires to modify the Protective Covenants;

NOW THEREFORE, for and in consideration of the premises and of the benefits to be derived by said owner and developer and by every subsequent owner of any of the lots in said subdivision, Declarant does hereby declare that those covenants of record at Deed Book 9236, Pages 212-234, Clerk's Office, Houston Superior Court, shall be amended and modified in the following particulars:1.

Section 3.21 shall be deleted in its entirety and replaced with the following:

3.21 **Landscaping.** When clearing lots for construction, all hardwood trees of a diameter of twelve inches (12") or more shall remain unless written approval for the tree removal is obtained from the Architectural Control Committee. Said restriction shall not include necessary removal of trees for home, outbuildings, or pool site location.

The builder, contractor, or owner of each residential lot shall certify to the ACC at the completion of the residence erected on each said lot that a minimum of **\$1,500.00** cost to said builder, contractor, or owner has been expended on the shrubbery on each lot within the Subdivision. Said cost to be based on the costs prevailing at this time of the execution of these covenants. Said costs shall not include the clearing and preparing of the lot for construction of the improvements, but shall be limited to amounts expended for the finish work required in landscaping, so as to provide landscaping which will enhance the appearance of said lot and subdivision. In addition to the **\$1,500.00** minimum required for shrubbery, each builder, contractor, or owner of each lot shall irrigate and sod a minimum of the front yard, side yard, and ten (10) feet of the rear yard as measured from the back of the residence. The remaining portion of the rear yard shall be covered with seed and straw. All flowerbeds shall have either pinestraw, mulch or approved rock. No white or bright white rocks shall be allowed in any flowerbeds in the front or side yards.

EXCEPT as hereinabove set forth, said the original instrument shall remain otherwise in full force and effect.

IN WITNESS WHEREOF, the said Declarant has caused this modification of protective covenants to be executed in its name by its duly appointed officers, on the day and year first above written.

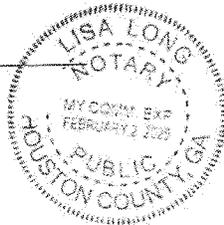
**RIVERBEND NORTH DEVELOPMENT,
LLC**

Signed, sealed and delivered in the presence of:

By: MS Byrd (SEAL)
Title: **MARK S. BYRD**
Managing Member

Melanie Green
Unofficial Witness

Lisa Long
Notary Public



APPROVED:

Signed, sealed, and delivered in the presence of:

By: Harry Lee Wingate, IV (SEAL)
Title: **Harry Lee Wingate, IV**
As Its Sole Member

Ricky Brown
Unofficial Witness

Lisa Long
Notary Public



APPROVED:

Signed, sealed and delivered in the presence of:

Andrea Bingham

Unofficial Witness

Maya Dyer

Notary Public

MORRIS BANK

[Signature] (SEAL)

By: *Seeb Lacey*
Title: *Commercial Lender*

Alexa Dupuis (SEAL)

Attest: *Credit Analyst*

