

**THIS DECLARATION CONTAINS AN ARBITRATION AGREEMENT SUBJECT TO
THE SOUTH CAROLINA ARBITRATION ACT, SECTION 15-48-10, et. seq, CODE OF
LAWS OF SOUTH CAROLINA, 1976**

STATE OF SOUTH CAROLINA) **THIRD AMENDMENT TO DECLARATION**
) **OF COVENANTS, RESTRICTIONS AND**
) **EASEMENTS FOR BAYNARD PARK AT**
COUNTY OF BEAUFORT) **BUCKWALTER**

THIS THIRD AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR BAYNARD PARK AT BUCKWALTER (this "Amendment") is made this 17th day of October, 2017, by **CENTEX HOMES**, a Nevada general partnership (the "Declarant").

RECITALS

WHEREAS, the Declarant executed that certain Declaration of Covenants, Restrictions and Easement for Baynard Park at Buckwalter, which was recorded in the Register of Deeds Office for Beaufort County, South Carolina (the "ROD"), on April 21, 2006, in Book 2359 at Page 1969, inclusive (such instrument may be amended and/or supplements from time to time is referred to herein as the "Declaration"), which restricts and encumbers certain real property located in the Town of Bluffton, Beaufort County, South Carolina; and

WHEREAS, pursuant to the terms of Section A of Article 14 of the Declaration, prior to the Turnover Date (as that term is defined in the Declaration), the Declarant may amend the Declaration by a written instrument duly recorded in the ROD, without the approval of the Association or any Member thereof, as long as the amendment does not materially alter or modify any Residential Owner's right to the use and enjoyment of such Residential Owner's Lot or Living unit, or of the Association Property as set forth in this Declaration, and the amendment does not adversely affect the title to any Lot; and

WHEREAS, the First Amendment to Declaration of Covenants, Restrictions and Easements for Baynard Park at Buckwalter was dated May 28, 2014, and recorded in the ROD on June 27, 2014, in Book 3330 at Page 793; and

WHEREAS, the Second Amendment to Declaration of Covenants, Restrictions and Easements and Bylaws for Baynard Park at Buckwalter was dated August 22, 2017, and recorded in the ROD on August 25, 2017, in Book 3602 at Page 0095.

NOW, THEREFORE, Declarant declares as follows:

1. The foregoing recitals are incorporated herein and made a part hereof by this reference.

2. All terms not defined herein, unless the context indicates otherwise, shall have the same meaning as defined in the Declaration.

3. The Declaration is amended effective upon recording with the Register of Deeds Office for Beaufort County, South Carolina.

4. If any terms or conditions of this Amendment conflict with the terms or conditions of the Declaration, the terms or conditions of this Amendment shall control. Otherwise, the terms or conditions of the Declaration shall remain in full force and effect.

5. The Declaration is hereby amended as follows:

ARTICLE 6 – ASSESSMENTS AND OPERATING EXPENSES:

B. Establishment of Liens. Any and all Assessments made by the Association in accordance with the Association Documents with Interest thereon, late charges, administrative fees, and costs of collection (including, but not limited to, Legal Fees) are declared to be a charge and continuing lien upon each Living Unit against which each such Assessment is made. Each Assessment against a Living Unit (together with Interest thereon and costs of collection) shall be the personal obligation of the Residential Owner thereof. The Association may record such lien at any time following the expiration of thirty (30) days following the date such Assessment(s) or installment(s) thereof became due and payable. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the lien in recordable form. Where an Institutional Mortgagee obtains title to a Living Unit as a result of foreclosure of its first mortgage or deed in lieu of foreclosure, such Institutional Mortgagee shall not be liable for the share of Assessments pertaining to such Living Unit that became due prior to the acquisition of title by such Mortgagee as a result of the foreclosure or deed in lieu thereof, unless the Assessment is secured by a claim of lien for Assessments recorded prior to the recording of the applicable mortgage.

I. Collection of Assessments. If any Residential Owner shall fail to pay any Assessment (or installment thereof) charged to such Residential Owner within fifteen (15) days after the same becomes due, then the Association shall have any and all of the following remedies to the extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Association:

1. To accelerate the entire amount of any Assessments levied on the applicable Living Unit for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

2. To advance on behalf of the Residential Owner(s) in default funds to accomplish the needs of the Association up to and including the full amount for which such Residential Owner(s) is liable to the Association. The amount of any funds so advanced, together with Interest, late charges as determined by the Board, from time to time, reasonable administrative fees, and all costs of collection there (including, but not

limited to, Legal Fees), may be collected by the Association and such advance by the Association shall not waive the Residential Owner's default.

3. To record a lien for the amount due to the Association as of the date the lien is recorded in the Public Records and file an action in equity to foreclose its lien at any time after the effective date of such lien. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property.

4. To file an action at law to collect said Assessments plus Interest, costs of collection, late charges, administrative fees and Legal Fees, without waiving any lien rights or rights of foreclosure in the Association.

5. To charge Interest on such Assessment from the date it becomes due, as well as a late charge as determined by the Board, from time to time, to defray additional collection costs.

ARTICLE 11 – USE RESTRICTIONS

C. **Nuisances.** No obnoxious or offensive activity shall be carried on about the Lots or in or about any Improvements, Living Units, or on any portion of the Project Land nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any Residential Owner. No use or practice shall be allowed in or around the Living Units and Lots which is a source of annoyance to Residential Owners or occupants of Living Units or which interferes with the peaceful possession or proper use of the Living Units or the surrounding areas. For purposes of this Use Restriction, compulsive hoarding is considered a nuisance.

E. **Parking and Vehicular Restrictions.** Vehicles may be parked or stored only on portions of a Lot improved for that purpose, i.e., garage, driveway, carport or parking pad. No unenclosed parking shall be constructed or maintained on any Lot except a paved driveway and an attached paved parking pad, which pad shall be designed for the parking of not more than 2 vehicles. Any driveway or parking pad constructed upon any Lot shall have either an asphalt concrete surface, a cement concrete surface, or brick pavers. The Board may publish additional reasonable rules and regulations regarding parking and vehicular restrictions within the Project, as determined by the Board.

H. **Leases.** No portion of a Living Unit (other than an entire Living Unit) may be rented. All leases must be in writing and shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles, Bylaws, of applicable rules and regulations, or of any other agreement, document or instrument governing the Lots or Living Units. No transient tenants may be accommodated in a Living Unit, and all leases shall be for an initial term of no less than ninety (90) days. A copy of the proposed lease must be delivered to the Association prior to occupancy by the tenant. The Residential Owner of a leased Living Unit shall be jointly and severally liable with his tenant to the Association to pay any claim for injury or damage to property caused by

the negligence of the tenant. Every lease shall be subordinated to any lien filed by the Association whether before or after such lease was entered into.

GG. Wildlife. Feeding, capturing, trapping, or killing wildlife within the Project Land is prohibited except in circumstances posing an imminent threat to the safety of persons or pets.

HH. Firearms and Explosives. Discharge of firearms or explosives within the Project Land is prohibited. The term "firearms" includes "BB" guns, pellet guns, and other firearms of all types, regardless of size.

ARTICLE 13 – ENFORCEMENT; NON-MONETARY DEFAULTS; ASSOCIATION REMEDIES

B. Non-Monetary Defaults.

4. Take any and all actions reasonably necessary to correct such failure, which action may include, where applicable, but is not limited to, entering a Living Unit and removing any addition, alteration, Improvement or change which has not been approved by the "Committee" or erected in accordance with the Committee's approval (as herein defined), or performing any maintenance required to be performed by this Declaration. This action includes authorizing judicial sale of the property remedy an Owner's continued failure to remedy a violation of this Declaration.

All expenses incurred by the Association in connection with the correction of any failure and all expenses incurred by the Association in connection with any legal proceedings to enforce this Declaration, including all costs, reasonable administrative and Legal Fees, shall be assessed against the applicable Residential Owner as an Individual Expense Assessment. The Association shall have a lien for any such Individual Expense Assessment and any associated Interest, costs, or expenses, including Legal Fees, and may take such action to collect such Assessment or foreclose said lien in the manner of any other Assessment as provided in this Declaration. Any such lien shall on be effective from and after the recording of a lien in the Public Records or applicable court of jurisdiction.

C. Fines. The amount of any fine shall be determined by the Board, and shall not exceed any amount mandated by applicable law, if any. Prior to imposing any fine, the Residential Owner or tenant shall be afforded an opportunity for a hearing after reasonable notice to the Residential Owner or tenant of not less than fifteen (15) days, which notice shall include (i) a statement of the date, time and place of the hearing, (ii) a statement of the provisions of this Declaration, Bylaws or rules and regulations which have allegedly been violated, and (iii) a short and plain statement of the matters asserted by the Association. The Residential Owner of a leased Living Unit shall have the right to participate in any hearing involving the tenant of such Living Unit, and the Association shall provide notice to the Residential Owner of such Living Unit concurrently with the Association's notice to the tenant of the subject Living Unit. The Residential Owner or

tenant shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge and respond to any material considered by the Association. At the hearing, the Board shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred, and if the Board so determines, it may impose such fine as it deems appropriate by written notice to the Residential Owner or tenant. If the Residential Owner or tenant fails to attend the hearing as set by the Board, the Residential Owner or tenant shall be deemed to have admitted the allegations contained in the notice to the Residential Owner or tenant. Any fine imposed by the Board shall be due and payable within fifteen (15) days after written notice of the imposition of the fine, or if a hearing is timely requested within fifteen (15) days after written notice of the Board's decision at the hearing. Any fine levied against a Residential Owner shall be deemed an Individual Expense Assessment, and if not paid when due all of the provisions of this Declaration relating to the late payment of Assessments shall be applicable. If any fine is levied against a tenant and is not paid within fifteen (15) days after same is due, the Association shall have the right to evict the tenant as hereinafter provided.

ARTICLE 14 – AMENDMENT

G. Recording of Amendments. A true copy of any amendment to this Declaration shall be sent via United States mail by the Association to Declarant and to any Institutional Mortgagee holding a mortgage on any portion of the Project Land that has requested notice by specifically identifying the name and address of the Institutional Mortgagee where such notice is to be sent. The amendment shall become effective upon the recording of an Amendment to this Declaration setting forth the amendment in the Public Records.

ARTICLE 15 – GENERAL PROVISIONS

B. Notices. Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, first class, postage prepaid, or via hand delivery, recognized courier or delivery service which provides confirmation of delivery, or when sent by internet or facsimile, in which event notice shall be deemed to occur on the date of acknowledgment or response by the recipient or by read receipt, to: (i) any Residential Owner, at the address of the person whose name appears as the Residential Owner on the records of the Association at the time of such mailing, and in the absence of any specific address, at the address of the Living Unit owned by such Residential Owner; and (ii) the Association, certified mail, return receipt requested, at the address listed for the Registered Agent with the Office of the South Carolina Secretary of State.

L. Agreement to Avoid Litigation. The Association, its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this section (collectively, "Bound Parties") shall encourage the amicable resolution of disputes involving the Project Land, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that claims, grievances or disputes shall be resolved using the procedures set forth in the Rules

and Regulations in lieu of filing suit in any court. Such procedures may include, but not be limited to, mediation and binding arbitration.

a. **Exclusions.**

(i) any suit, action or proceeding by the Association against any Bound Party to collect or enforce the Assessment provisions and other payments pursuant to the Governing Documents;

(ii) any suit, action or proceeding by the Association at law or in equity, including, without limitation, an action to obtain a temporary restraining order, injunction, or other mandatory or prohibitive equitable relief, and such other ancillary relief as permitted to enforce the provisions of the Governing Documents;

(iii) any suit, action or proceeding by an Owner to challenge the actions of the Association, or any Committee with respect to approval, disapproval, application or enforcement of the provisions of the Governing Documents, and any counterclaims in response thereto; or

(iv) termination of employment relationship or enforcement of a contract.

N. **Jurisdiction and Venue.** This Declaration shall be governed by and construed in accordance with the laws of the State of South Carolina. Venue shall be Beaufort County, South Carolina.

Ratification of Declaration

Except as modified or changed herein, the Declaration of Covenants, Restrictions and Easements for Baynard Park at Buckwalter are hereby ratified as if restated fully herein.

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Signature Page to Follow

*Signature Page of Third Amendment to Declaration of
Covenants, Restrictions and Easements for Baynard Park at Buckwalter*

IN WITNESS WHEREOF, the undersigned Declarant has executed this Third Amendment to Declaration of Covenants, Restrictions and Easements for Baynard Park at Buckwalter this 17th day of October, 2017.

WITNESSES:

Maureen A. McCarthy
Witness
Maureen A. McCarthy
Witness (may be Notary)

PULTE HOME COMPANY, LLC,
A Michigan Limited Liability Company,
f/k/a Pulte Home Corporation

By: *Matthew Raines*
Print Name: Matthew Raines
Title: Vice President of Land Development

STATE OF SOUTH CAROLINA)
)
COUNTY OF ~~BEAUFORT~~)
)
Charleston

ACKNOWLEDGMENT

I, the undersigned Notary Public, hereby certify that the above signed authorized signatory for Pulte Home Company, LLC, f/k/a Pulte Home Corporation, appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 17th day of October, 2017.

Maureen A. McCarthy
Notary Public for South Carolina
My Commission Expires: 11-22-26

