

THIS INSTRUMENT PREPARED BY:

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BALDWIN COUNTY, ALABAMA  
TIM RUSSELL PROBATE JUDGE  
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STATE OF ALABAMA  
COUNTY OF BALDWIN

**FIRST AMENDMENT TO DECLARATION OF CONDITIONS, COVENANTS  
AND RESTRICTIONS OF SPYGLASS TOWNHOMES SUBDIVISION**

THIS FIRST AMENDMENT TO DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS (this "Amendment") is made this 24<sup>th</sup> day of August, 2018 (the "Effective Date"), by 68V Spyglass 2016, LLC, an Alabama limited liability company ("Declarant"), and Spyglass Townhome Owners Association, Inc., an Alabama nonprofit corporation (the "Association").

**WITNESSETH:**

WHEREAS, on August 24, 2017, Declarant recorded that certain Declaration of Conditions, Covenants and Restrictions of Spyglass Townhomes Subdivision (the "Subdivision") at Instrument Number 1652743 (the "Declaration"), regarding certain real property located in Baldwin County, Alabama and described on that subdivision plat for Spyglass Townhomes, recorded at Slides 2608D and 2608E, all in the Office of the Judge of Probate of Baldwin County, Alabama;

WHEREAS, Section 10.03 of the Declaration allows Declarant to amend the Declaration in any manner prior to Turnover (as that term is defined in the Declaration), and Turnover has not occurred as of the Effective Date of this Amendment;

WHEREAS, the Association is the owner of all Common Area (as that term is defined in the Declaration) in the Subdivision; and

WHEREAS, Declarant and the Association desire to amend the Declaration in accordance with the terms and conditions hereof.

**Amendment:**

NOW THEREFORE, Declarant, as the declarant under the Declaration, hereby amends the Declaration as follows:

1. **Capitalized Terms.** Capitalized terms used herein unless otherwise defined herein shall have the meaning ascribed to such terms in the Declaration.

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2. Recitals. The foregoing recitals are true and correct in all material respects and form an integral part of this Amendment, the same as if said recitals were included in the numbered paragraphs hereof.

3. Amendment to Create New Section 2.12. The Declaration is hereby amended to create Section 2.12 with the following text:

2.12 Public Utility Easement. A utility easement is hereby reserved over, under, and through the Common Area that is seven and one-half feet (7.5') surrounding the exterior Lot lines of each Townhome Building for the purpose of installing, maintaining, and repairing utility lines to and for the benefit of providers of public utilities (the "Utility Easement"). The Utility Easement shall be owned and maintained by the Association.

4. Amendment to Create New Section 2.13. The Declaration is hereby amended to create Section 2.13 with the following text:

2.13 Drainage Easements. A drainage easement is hereby reserved over the Common Area that is seven and one-half feet (7.5') surrounding the exterior Lot lines of each Townhome Building for the purpose of directing and pooling stormwater over such area to and for the benefit of the Owners in the Townhome Building surrounded by such area (as applicable, the "Drainage Easements"). The Drainage Easements shall be owned and maintained by the Association.

5. Patio and HVAC Easements. The Association hereby grants, and Declarant hereby reserves, an easement ten feet (10') in width over (i) the Common Area immediately adjacent to the northern boundary line of Lots 6, 10, and 16; (ii) the Common Area immediately adjacent to the northeastern boundary lines of Lots 17, 23, 29, 35, 44, 50, and 56-64; (iii) the Common Area immediately adjacent to the eastern boundary lines of Lots 1-6, 7-10, and 11-16; (iv) the Common Area immediately adjacent to the southeastern boundary line of Lots 39-57, 61, 68, 74, 78, and 84; (v) the Common Area immediately adjacent to the southern boundary lines of Lots 1, 7, 11, and 85-88; (vi) the southwestern boundary lines of Lots 22, 28, 34, 38, 39, 45, 51, and 65-84; (vii) the western boundary lines of Lot 85; and (viii) the northwestern boundary lines of Lots 17-38, 60, 64, 65, 69, 75, and 79 (collectively, the "Patio and HVAC Easement"). The Patio and HVAC Easement shall run to and for the benefit of the owner of the Lot to which the Patio and HVAC Easement is adjacent and shall be for the construction, location, maintenance, and use of a patio and HVAC equipment within such Patio and HVAC Easement. Each Owner benefitted by the Patio and HVAC Easement shall be responsible for repairs and maintenance of any patio or HVAC equipment located within such Patio and HVAC Unit adjacent to such Owner's Lot.

6. Consent and Subordination of the Association. The Association joins in this Amendment to consent to the imposition of the Utility Easement, the Drainage Easements, and the Patio and HVAC Easements (collectively, the "Easements") over the Common Area. The Association acknowledges and agrees that its ownership of the Common Area shall hereafter be subject and subordinate to the Easements in all respects.


7. Continued Effectiveness. All of the applicable terms, conditions and provisions of the Declaration, as hereby supplemented and amended, are in all respects hereby ratified and reaffirmed, and the Declaration and this Amendment shall be read, taken, and construed as one and the same instrument. References in the Declaration and all exhibits thereto shall be deemed to be references to the Declaration as amended by this Amendment.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, Declarant has executed this Amendment by and through its duly authorized representative as of the date first set forth above.

**DECLARANT:**

68V SPYGLASS 2016, an Alabama limited liability company

By:   
Nathan L. Cox  
As Its Manager

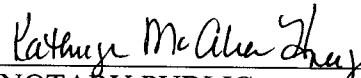
STATE OF ALABAMA :  
COUNTY OF BALDWIN :

I, the undersigned Notary Public, in and for said State and said County, hereby certify that Nathan L. Cox, whose name as a Manager of 68V Spyglass 2016, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such Manager and with full authority, executed the same voluntarily as and for the act of said limited liability company on the day the same bears date.

Given under my hand and official notarial seal this the 17<sup>th</sup> day of September, 2018.

{SEAL}



  
NOTARY PUBLIC  
My Commission Expires May 23, 2022

IN WITNESS WHEREOF, the Association has executed this Amendment by and through its duly authorized representative as of the date first set forth above.

Spyglass Townhome Owners Association, Inc., an  
Alabama nonprofit corporation

By:   
Grant Rish  
President


STATE OF ALABAMA :  
COUNTY OF BALDWIN :

I, the undersigned Notary Public, in and for said State and said County, hereby certify that Grant Rish, whose name as President of Spyglass Townhome Owners Association, Inc., an Alabama nonprofit corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such President and with full authority, executed the same voluntarily as and for the act of said entity on the day the same bears date.

Given under my hand and official notarial seal this the 17<sup>th</sup> day of September, 2018.

{SEAL}



  
NOTARY PUBLIC  
My Commission Expires: May 23, 2022

**MORTGAGEE'S CONSENT**

First Exchange Bank, an Alabama banking corporation ("Secured Lender"), the mortgagee under that certain First Priority Mortgage, Assignment of Rents and Contracts, Security Agreement and Financing Statement, executed by 68V Spyglass 2016, LLC, an Alabama limited liability company, dated March 17, 2017, and recorded at Instrument Number 1623571 of the Office of the Judge of Probate of Baldwin County, Alabama (the "Mortgage"), does hereby consent to the recording of this Amendment. Secured Lender does hereby acknowledge and agree that the Declaration, as amended by this Amendment, shall be given priority over the Mortgage, and shall be unaffected by any default, foreclosure or exercise of any other remedy under the Mortgage, the same as if the Declaration and this Amendment were executed, delivered and recorded prior to the execution and recording of the Mortgage.

IN WITNESS WHEREOF, Secured Lender has caused this Consent to be executed by and through its duly authorized representative as of the 17<sup>th</sup> day of September, 2018.

FIRST EXCHANGE BANK, an Alabama banking corporation

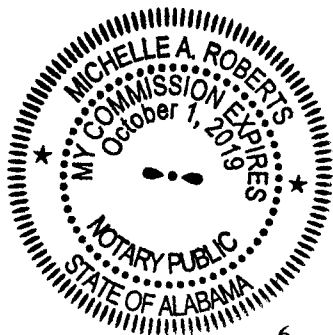
By: *Chris Roberts*  
Name: Chris Roberts  
As Its: Vice-President

STATE OF Alabama  
COUNTY OF Mobile

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that Chris Roberts as the Vice President for First Exchange Bank, an Alabama banking corporation, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that being informed of the contents of said conveyance, s/he has executed the same voluntarily for and as the act of said entity.

Given under my hand and seal this 17<sup>th</sup> day of September, 2018.

*Michelle A. Roberts*  
Notary Public  
My Commission Expires: 10-1-19



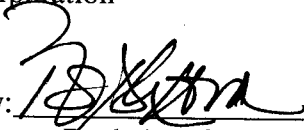
**CONSENT OF D.R. HORTON, INC. – BIRMINGHAM**

D.R. Horton, Inc. – Birmingham, an Alabama corporation (“Horton”), the mortgagee under that certain Earnest Money Mortgage, executed by 68V Spyglass 2016, LLC, an Alabama limited liability company, dated March 17, 2017, and recorded at Instrument Number 1623573 of the Office of the Judge of Probate of Baldwin County, Alabama (the “EM Mortgage”), does hereby consent to the recording of this Amendment. Horton does hereby acknowledge and agree that the Declaration, as amended by this Amendment shall be given priority over the EM Mortgage, and shall be unaffected by any default, foreclosure or exercise of any other remedy under the EM Mortgage, the same as if the Declaration and this Amendment were executed, delivered and recorded prior to the execution and recording of the EM Mortgage.

Furthermore, Horton hereby consents to the recording of this Amendment in accordance with Section 10.04 of the Declaration.

IN WITNESS WHEREOF, Horton has caused this Consent to be executed by and through its duly authorized representative as of the 21<sup>st</sup> day of September, 2018.

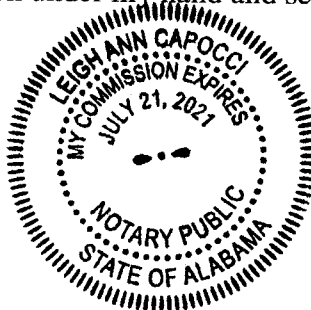
D.R. HORTON, INC. – BIRMINGHAM, an Alabama corporation

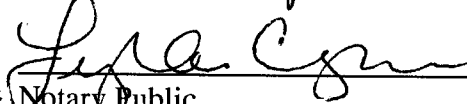
By:   
Rachel DeQuattro  
As Its Assistant Secretary

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that Rachel DeQuattro as the Assistant Secretary for D.R. Horton, Inc. – Birmingham, an Alabama corporation, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that being informed of the contents of said conveyance, she, as such officer and with full authority, has executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal this 21<sup>st</sup> day of Sept., 2018.



  
Notary Public  
My Commission Expires: 7/21/21.