

STATE OF GEORGIA
COUNTY OF CHEROKEE

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR NOLAN FARMS SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR NOLAN FARMS WEST SUBDIVISION (the "Declaration") made this ___ day of JANUARY, 2019 by BROHAY, LLC. , a Georgia limited liability company and MC& S Enterprises, LLC, a Georgia limited liability company(hereinafter referred to as "Declarant"),

W I T N E S S E T H:

WHEREAS, Declarant is the owner of all that parcel of land lying and being in Land Tract 1296 of the 3RD District, 2nd Section of Cherokee County, Georgia, and being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference for a more particular description of the property (said being referred to herein as the "Property"); and

WHEREAS, Declarant desires to provide for the maintenance, preservation, control, and property development of the Property, including, without limitation, provision for the physical appearance of the improvements constructed thereon; and,

WHEREAS, Declarant desires to provide adequate setbacks and landscaped areas in order to promote the general appearance of the Property and to protect real property adjoining the Property which is owned by Declarant; and,

WHEREAS, Declarant desires to subject the Property to the covenants, conditions. Restrictions, easements, agreements, charges and items hereinafter set forth which shall inure to the benefit of and run with the title to the Property, each of which is for the protection and benefit of the Property or any portion thereof and for the benefit of Declarant and all the subsequent owners of the Property or any portions thereof;

NOW, THEREFORE, Declarant hereby declares that the Property is subjected to this Declaration and that the Property shall be held, transferred, sold, conveyed, used, exchanged, occupied, and encumbered subject to this Declaration and subject to the covenants, conditions, restrictions, easements, agreements, charges, and liens hereinafter set forth; provided, however, that any portions of the Property which shall hereafter be dedicated to Cherokee County, Georgia, for public right-of-way purposes or other public purposes shall not then be further subject to this

Declaration. Each grantee or beneficiary of any interest in any portion of the Property, by acceptance of a deed, lease, usufruct or other conveyance or transfer of such interest, whether or not it shall be so expressed in any such deed or other conveyance or transfer and whether or not such grantee or beneficiary shall consent in writing thereto, shall take title to such property subject to this Declaration and to the terms and conditions hereof, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquires its interest in any portion of the Property.

GENERAL COVENANTS AND PROVISIONS

SECTION 1. RESIDENTIAL USE OF PROPERTY. The Property shall be used for residential purposes only. No structure shall be erected altered, placed or permitted to remain on any Tract other than one detached, single family dwelling and other structures customarily incidental to residential use. No portion of the Property shall be used for a church, school, kindergarten, beauty shop or any other commercial or industrial purpose. Private offices may be maintained in dwellings located on a Tract so long as such use is incidental to the primary residential use of the dwelling. No structure upon any portion of the Property separate from the main residential dwelling may be rented for any purpose.

SECTION 2. MOBILE HOMES, TRAILERS. No mobile home, trailer, tent, shack, or modular home shall be placed or erected on any Tract, temporarily or permanently. No structure of a temporary character may be used as a residence. No permanent structures on any Tract of the Property which are not primarily used as residential dwellings, such as barns, sheds, workshops, and other accessory buildings, shall be used as a residence, temporarily or permanently. No used or second-hand homes shall be placed or moved upon the Property or any Tract. No residential dwelling may be constructed off-site and relocated to the Property or any Tract.

SECTION 3. BUILDING REQUIREMENTS. Any primary residential dwelling built upon any Tract of the Property shall be approved the Declarant or the Architectural Committee. Any primary residential dwelling built upon any Tract of the Property shall have a minimum square footage, exclusive of open porches, garages, carports or basements, of not less than two thousand nine hundred square feet (2900 square feet). Moreover, any primary residential dwelling having more than one story in height shall have a square footage of not less than three thousand four hundred square feet (3400 square feet). Square footage, as used in this Declaration, shall refer to heated living area within a residential dwelling. All homes shall have a three (3) car garage. All driveways shall be constructed of concrete, asphalt, gravel, or a combination thereof. Construction of the primary residential dwelling is to be completed within twelve (12) months from the date construction upon the dwelling is commenced. Construction shall be deemed complete when the applicable governing authority issues the necessary certificate of occupancy or its equivalent. All tennis courts and swimming pools constructed on any Tract shall be located behind the rear line of the primary residential dwelling located on such Tract. No propane tank (including, without limitation, any tank for the storage of fuels for the purpose of heating the residential dwelling or any other structure located on any Tract), water tank, water pipe, gas pipe, or drainage pipe shall be installed or maintained on any Tract above the surface of the ground, except for hoses and other movable devices used for irrigation purposes.

SECTION 4. PROHIBITED MATERIALS Unless approved in writing by the Architectural Committee, no concrete blocks, used in either buildings or walls, shall be visible unless such blocks have an exterior finish of rock, stacked stone, brick, stucco, or similar decorative covering.

SECTION 5. OUTBUILDINGS. Outbuildings may be constructed on a Tract subject to the following specifications:

- (a) Exterior finishes shall be similar in nature and design as the primary residential dwelling on the Tract;
- (b) No previously used tin, metal, stone, or wood may be used on any exterior portion of the outbuildings without the prior written consent of the Architectural Committee;
- (c) Unless prior written approval is obtained from the Declarant or Architectural Committee, no outbuilding is permitted to be constructed on any Tract unless and until a primary residential dwelling has been constructed upon such Tract and a certificate of occupancy issued therefore; and,
- (d) Any outbuilding or similar structure constructed on a Tract must have prior written approval from the Declarant or Architectural Committee prior to construction thereof.

SECTION 6. FENCES. Fences must be 4 board wood fences and must be painted black. All fencing must be approved by the Architectural Committee before installation. If a Tract owner wishes to fence in the back yard, it must be from the rear corner of the house. Each Tract must have a front black 4 board fence following the contour of the road.

SECTION 7. WALLS. Walls for decorative purposes and retaining purposes which have been approved by the Architectural Committee shall be permitted on a Tract subject to the following specifications:

- (a) Decorative walls must be constructed of brick or natural stone.
- (b) Retaining walls must be constructed of brick, natural stone, clay, stucco, or veneer with brick or natural stone; and.

SECTION 8. SIGNAGE No signs of any kind shall be erected or maintained on any Tract with the exception of a professionally lettered sign of a builder, realtor, or owner advertising the Property or any Tract and, if applicable, the residential dwelling and other structures located on such Tract, for sale or rent. Any sign allowed herein shall be no more than five (5') feet by five (5') in size. Additional signs may be used by a builder as the Declarant deems reasonably necessary to promote the sale of a Tract of the Property. So long as Declarant is the owner of any portion of the Property, this Section 8 shall not be applicable to signs erected

by Declarant regarding the sale of the Property or any portion thereof.

SECTION 9. SATELLITE DISHES; ANTENNAE; ETC. No television antenna, radio receiver, radio receiver equipment, satellite dish, equipment serving as an antennae or satellite dish, or other similar device shall be attached to, placed upon, or installed on any Tract, unless contained entirely within the interior of an enclosed and roofed building or approved in writing prior to the installation of such items by the Architectural Committee. Certain satellite dishes and similar equipment may be installed upon a Tract by an owner thereof with the express written consent of the Declarant or the Architectural Committee which may be withheld in the sole discretion of Declarant or the Architectural Committee. Any such allowed satellite dishes or similar equipment shall not be visible from any street or public right of way. No radio or television signals, nor any other form of electromagnetic radiation, shall be permitted to originate from any Tract which may unreasonably interfere with the reception of television or radio signals within the Property. Declarant shall have final discretion but will allow Dish Network or Direct TV satellite dish not to exceed 18 inches in diameter.

SECTION 10. NOXIOUS ACTIVITIES; TRASH; UNSIGHTLY OR UNKEMPT CONDITIONS. No noxious, illegal or offensive activity or trade shall be carried on upon any Tract of the Property, nor shall anything be done upon any Tract of the Property which may be or become an annoyance or nuisance to the owners of any other Tract or portion of the Property. All rubbish, trash, and garbage shall be regularly removed from each Tract and shall not be allowed to accumulate thereon. No Tract shall be used or maintained as a dumping ground for rubbish, trash, or garbage. Trash, rubbish, or garbage shall not be kept on any Tract, except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. All such sanitary containers shall be kept in a clean and sanitary condition. No Tract shall be used for the open storage of any materials whatsoever if such storage is visible from any street or public right of way or any other Tract except that new building materials used in the construction of improvements being erected on any Tract may be placed upon such Tract at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without delay, until the completion of the improvements, after which such building materials shall either be removed from the Tract or stored in a suitable enclosure contained on the Tract. It shall be the responsibility of the owner of each Tract to prevent any unclean, unhealthy, unsightly, or unkempt conditions from existing on or within such owner's Tract and residential unit and other improvements located on such Tract. Any items such as outside patio furniture or other articles that may be viewed from any street or public right of way or any other Tract shall be maintained in a neat and tidy condition. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, may not be pursued or undertaken within or on any part of the Property.

SECTION 11. ANIMALS. No animals or livestock of any kind(including horses0 shall be raised, bred or kept on any Tract nor within any residential unit located on such Tract, except that dogs, cats, or other usual household pets and up to five laying hens provided they have a chicken coop no larger than 100 square feet in size, may be kept by the respective owner of any Tract. No Roosters are allowed. Notwithstanding the foregoing, no dog, cat, other usual household pet, may be kept, bred, or maintained for any commercial purposes. The Declarant, if in existence, may, by

adoption of rules and regulations as provided herein, prohibit from the Property animals which are determined by the Declarant to be dangerous or detrimental to the health, safety, or welfare of the owners of any Tract. No pet enclosures shall be erected, placed, or permitted to remain on any Tract subjected to this Declaration except pursuant to the provisions hereof. In the event a pet or pets become a nuisance in the opinion of the Declarant (and, for purposes of this Declaration, excessive barking, howling, and other audible noises which may be heard outside of the boundary lines of any Tract where any such pet is kept shall be deemed to be a "nuisance" hereunder), they shall be immediately and permanently removed from the Property by the owner of such pet upon written notification to such owner.

SECTION 12. HOUSE TRAILERS, CAMPERS, TRUCKS, BUSES, BOATS, MACHINERY. No house trailers, utility trailers, flat-bed trailers, horse trailers, campers, trucks, buses, or transfer trucks shall be permitted to be parked, placed, or located on any Tract in such a way to be visible from the street. No machinery shall be placed, operated, or stored upon any Tract of the Property except such machinery as is usual in the maintenance and upkeep of a private residence. Any machinery allowed herein shall be stored or parked in garages, basements, or other completely enclosed structures permitted hereunder.

SECTION 13 PARKING; MOTOR VEHICLES; TRAILERS; BOATS. All automobiles and transportation vehicles owned or used by owners or occupants of Tracts other than temporary guests and visitors shall be parked within garages. Vehicles shall otherwise be parked on Tract within Architectural Committee approved parking areas or on the driveway. No vehicles shall be parked or stored on blocks or other such devices within the Property. The Declarant is expressly authorized to remove, by towing or other methods, at the owner or occupant's expense, any unlawful or prohibited vehicle in violation hereof. Without prior written approval and authorization of the Declarant, abandoned vehicles, vehicles which are either dismantled, partially dismantled, inoperative, discarded, or which do not have a valid license plate attached thereto, shall be stored, allowed to remain overnight, or repeatedly parked on any Tract or any portion of the Property subject to this Declaration. No vehicles shall be parked so as to obstruct the fire lanes or roadways within the Property, if any. If permitted, boat trailers, boats, campers, motorcycles, mopeds, all-terrain vehicles, vehicles used primarily for recreational or commercial purposes, travel trailers, or inoperative motor vehicles are to be stored out of view from any street or public right of way or any other Tract and shall not be stored on driveways. The Declarant is expressly authorized to remove, by towing or other methods, at the owner or occupant's expense, any unlawful or prohibited vehicle in violation hereof.

SECTION 14. CLOTHES LINES; GARBAGE CANS; WOODPILES; ETC. No clotheslines, garbage cans, woodpiles, and other similar items must be screened by landscaping or fencing, or placed in a location not visible from any street or public right-of-way or any other Tract of the Property.

SECTION 15. MAILBOXES. Mailboxes shall be in keeping with the architectural style of the residential dwelling located on the Tract of the Property for which such mailbox shall serve. The design and location of all mailboxes shall be approved by the Declarant or Architectural Committee.

SECTION 16. ENFORCEMENT OF COVENANTS. If the owner of any Tract of the Property shall violate or attempt to violate any of the covenants, conditions, restrictions, and

easements contained herein, any other owner of any portion of the Property (or the Declarant as long as Declarant owns any portion of the Property) or any other Tract of the Property may enforce the provisions of this Declaration, at the election of the party enforcing this Declaration, by (i) proceedings at law against such person or persons violating or attempting to violate such covenants, conditions, restrictions, easements, or other provisions, (ii) injunction or restraining order in equity to enforce compliance herewith, (iii) suit for damages, and/or (iv) any appropriate proceeding at law or equity against the Tract of the Property upon which the owner in violation hereof or attempting to violate the provisions hereof resides or the owner or occupant thereof to enforce any obligation arising by virtue of this Declaration. Failure of Declarant or of any owner of any other Tract of the Property to enforce said covenants, conditions, restrictions, easements or other provisions when in such party's reasonable opinion, such waiver or variance will not be detrimental to the Property or any other Tract of the Property shall in no event be deemed a waiver of its rights to enforce said covenants, conditions, restrictions, easements or other provisions thereafter. All remedies provided in the Declaration or at law or equity shall be cumulative and not exclusive.

SECTION 17. AMENDMENT, MODIFICATION, DURATION. This Declaration shall run with and bind the Property and each Tract thereof for a term of forty (40) years from the date this Declaration is filed in the Office of the Clerk of the Superior Court of Cherokee County, Georgia. Declarant hereby expressly reserves the right to unilaterally amend or modify this Declaration for a period of seven (7) years from the date this Declaration is filed for record in the office of the Clerk of the Superior Court of Cherokee County, Georgia, and, notwithstanding the foregoing, further reserves the right to amend or modify this Declaration, in whole or in part, until Declarant no longer owns any portions of the Property. Furthermore, Declarant reserves the right to amend this Declaration for a period of ten (10) years for the purpose of encumbering additional real property, by one or more amendments hereto, to the terms, conditions, and provisions of this Declaration so that such additional real property shall be deemed a portion of the Property as if originally described as such as of the date of the filing of this Declaration. Said additional real property added to the Property and subjected to the terms and conditions of this Declaration must be contiguous to the Property, although for purposes hereof, separation of said additional real property by a street or road (whether public or private), stream, creek, or branch shall be considered "contiguous" for purposes hereof. Any amendment or modification which shall further restrict the Property or any Tract thereof must be executed and agreed to by the owner of each Tract of the Property, although for purposes hereof, an amendment which adds additional real property to the Property and subjects said additional real property to the terms and conditions of this Declaration shall not be deemed to "further restrict the Property or any Tract" and shall not require the consent or approval of any owner of a Tract within the Property. Any amendment or modification of this Declaration shall be recorded in the Office of the Clerk of the Superior Court of Cherokee County, Georgia prior to the effectiveness thereof.

SECTION 18. EFFECT OF INVALIDATION. If any provision of this Declaration is held to be invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Declaration and all covenants, conditions, restrictions and easements contained herein shall be deemed to be severable, each from the other, without qualification.

SECTION 19. SOIL EROSION CONTROL; DRAINAGE; DRIVEWAYS. It shall be the responsibility, obligation, and duty of the owner of each Tract of the Property to strictly adhere to all soil erosion control and driveway installation guidelines, regulations, laws, and rules, whether promulgated by Declarant or any state or local governmental entity, and further, to ensure that all actions necessary to adhere to such erosion control and driveway installation guidelines, regulations laws, and rules are taken. Natural drainage of Tracts or roadway ditches will not be impaired by any owner of any Tract. Driveway culverts, if necessary, will be of sufficient size to afford proper drainage of ditches without backing water into a ditch or diverting the flow of storm water within such ditch. Declarant may remove any culvert that obstructs the flow of water through ditches at the cost of the owner of such Tract upon which said culvert is located. The Declarant may enforce reasonable drainage and erosion measures promulgated by the Declarant as rules and regulations. Declarant assumes no responsibility for soil erosion on any Tract after title to such Tract has been conveyed by Declarant to any other party and each owner of a Tract, upon acceptance of a deed therefore fully and completely agrees to indemnify and hold harmless Declarant from and against any and all damages, liabilities, expenses, or other sums resulting from such owners failure to adhere to any and all laws, ordinances, or other regulations concerning storm water drainage, retention, or runoff. No ditches, culverts, or other drainage facilities located on the Property or any Tract thereof shall be moved, altered, or damaged without the prior written consent of the Declarant. It shall be the responsibility of the owner of each Tract of Property to properly and fully maintain, at such owner's sole cost and expense, any ditch, culvert, or other drainage facility located thereon.

SECTION 20. SWIMMING POOLS. In-Ground Swimming pools are allowed on any Tract within the Property if approved in writing by the Declarant or Architectural Committee and must be built per county requirements regarding fencing and other features.

SECTION 21. ARCHITECTURAL COMMITTEE. Declarant hereby creates an Architectural Control Committee (the "Architectural Committee") to oversee the construction of improvements upon all Tracts within the Property. The Architectural Committee shall mean and refer to **Matt Smith and Douglas Smith** or such other person(s) as appointed by Declarant.. No structure shall be commenced, erected, placed, moved onto, or permitted to remain on any Tract, nor shall any existing structure upon any Tract be altered in any way which materially changes the exterior appearance thereof, unless and until a set of plans and specifications has been submitted to the Architectural Committee and be approved in writing thereby. Such plans and specifications shall be in such form and contain such information as the Architectural Committee shall reasonably require in order to determine the compliance of the proposed improvements with the terms and conditions of this Declaration, including, without limitation, (i) a site plan showing the location of all proposed and existing structures on the Tract, (ii) floor plans of all proposed structures on the Tract, (iii) exterior elevations of all proposed structures and exterior elevations of all structures proposed to be altered, (iv) specifications adequately showing the nature, kind, shape, height, materials, basic exterior finishes, and colors of all proposed structures, and (v) landscaping and other exterior improvements to the Tract. The Architectural Committee shall have the right to approve or disapprove of any structure or improvement to any Tract in its sole and

absolute discretion; provided, however, that the Architectural Committee shall provide its written consent or denial of any plans and specifications within sixty (60) days of submittal to the Architectural Committee. Failure of the Architectural Committee to provide written consent or denial of any plans and specifications shall be deemed to be an approval of such plans and specifications.

SECTION 23. INGRESS/EGREES & UTILITY EASEMENT; PRIVATE ROAD. The owners of each Tract of the Property shall have a perpetual, non-exclusive 50 foot easement for ingress, egress and the installation of utilities over and across a private road known as Nolan Way f/k/a Grandville Lane as shown on the Plat recorded at Plat Book 118, Page 1601, and a second 20 foot perpetual, exclusive easement along the 20 foot Exclusive Ingress/Egress and Utility Easement over and across the area so designated and as shown on the Plat Book 118, Page 1699 recorded at Plat Book which is attached hereto and made a part hereof by reference thereto. The use of the Private Road for purposes of ingress and egress shall be confined to any paved, graded, or graveled private roadway located within the Private Road. The use of the Private Road for purposes of installation and usage of utilities shall be within the Private Road and not interfere with or otherwise hinder any other owner of a Tract of the Property's use of the Private Road for ingress, egress and installation and usage of utilities. No installation of utilities shall be commenced by the owner of any Tract of the Property without the Prior written consent of the Declarant as to the location of such installation. Each owner of the Property, by acceptance of a deed for any portion of the Property, agrees and covenants that the easement created hereby shall be for the benefit of all of the owners of portions of the Property subject to this Declaration whether or not any owner does actually utilize the Private Road because such owners Tract is adjacent to the public right of way for Avery Road/ Lacy Road. By acceptance of a deed for any Tract of the Property subject to this Declaration, each owner of a Tract of the property shall contribute to the Maintenance Fee (as hereinafter defined) for maintenance and routine repair for normal wear and tear of the Private Road and its entrance upkeep and landscaping. By acceptance of a deed for any Tract of the Property subject to this Declaration, any owner of a Tract of the Property agrees and covenants that any damage, destruction, or other injury caused to the Private Road area, whether by such owner or by such owners agents, employees, invitees, guests, representatives, or contractors, and whether such damage is directly or indirectly attributable to such owner or such owner's agents, employees, invitees, guests, representatives, or contractors, shall be repaired by such owners at such owners sole cost and expense within fifteen (15) days of the date such damage is caused to the Private Road.

SECTION 24. MAINTENANCE FEES; ASSOCIATION. The owners of each Tract shall pay to Declarant, until Declarant no longer owns any portion of the Property, the sum \$500.00 annually as fees for the maintenance and upkeep of the Private Road, 20 Foot Easement and the Landscaping Maintenance along Private Road and 20 Foot Easement, Electricity for the irrigation and Well Pump, painting and upkeep of the fence and any other common expenses involved in maintaining the common property and Private Road and 20 Foot Easement. The Maintenance Fee shall be due on January 30, of each year. Within 120 days from the date upon which Declarant no longer owns any portion of the Property, the owners of each tract and the Declarant shall convene a meeting and form an incorporated or unincorporated association for the owners of the Tracts of the Property (the "Association"). At said formation meeting, the owners of the Tracts, by majority vote, shall determine whether to form an incorporated or unincorporated association. The owners of the 9

Tracts or their spouse shall each appoint one owner or spouse as a Board member, the Board consisting of 9 members. At such time as the Board is created, such Board shall have the right to determine rules and regulations as allowed or contemplated by this Declaration, the right to set and determine Maintenance Fees and upkeep of the Private Road, the landscaping, and the right to determine all procedures governing meeting frequency(although meeting of the owners of the Tracts of the property shall not be held fewer than once a year) , and all rules, regulation, or procedure which are advisable or reasonable for the governance of the Property, the enforcement of the Declaration, and other matters which are necessary for the orderly conduct of business by the Board. From and after the date of creation of the Board, the Board shall additionally act as the Architectural Committee. The Declarant shall turn over the balance of any annual fees collected to the Board at this meeting.

SECTION 25. SETBACKS. All Tracts shall have a front building setback for all improvements permitted herein (other than approved fencing) of fifty feet (50') from any boundary line of a Tract. Side Tract set back shall be fifty (50') from any boundary line of a Tract.

SECTION 26. RECITALS. The recitals contained herein are incorporated into this Declaration by reference thereto as if fully set forth as a covenant or restriction in this Declaration.

IN WITNESS WHEREOF, Brohay, LLC, a Georgia limited liability company, and MC & S Enterprises, LLC have caused this Declaration of Covenants, Conditions, Restrictions, and Easements to be executed the day and year first above-written.

Signed, sealed, and delivered
in the presence of:

Witness

Notary Public

DECLARANT:

BROHAY, LLC

BY: DOUGLAS C. SMITH LIVING TRUST
DATED MARCH 24, 2014

DOUGLAS C. SMITH, AS TRUSTEE, ITS
MANAGING MEMBER

ARLENE B. SMITH, AS TRUSTEE, ITS
MANAGING MEMBER

Signed, sealed, and delivered
in the presence of:

Witness

Notary Public

DECLARANT:

MC& S ENTERPRISES, LLC

CASSEY SMITH, MANAGING MEMBER

MATTHEW SMITH,
MANAGING MEMBER