

After recording, return to:
Donald W. Hansford, PC
P O Box 1376
Watkinsville, GA 30677

**DECLARATION OF PROTECTIVE COVENANTS
FOR
HARPERFIELD SUBDIVISION, OCONEE COUNTY, GEORGIA**

THIS DECLARATION OF PROTECTIVE COVENANTS, made as of the 27th day of June, 2011 by **DICKENS BUILDERS, INC.**, a Georgia corporation (hereinafter, together with any transferee so designated by Dickens Builders, Inc. as successor declarant, referred to as "Declarant"), for **HARPERFIELD SUBDIVISION** (hereinafter referred to as the "Subdivision") pursuant to Final Plat of the Subdivision recorded in Plat Book 37, Page 365, Records of Oconee County, Georgia (hereinafter referred to as the "Plat"),

WITNESSETH:

WHEREAS, Declarant is the owner of the Subdivision, the Subdivision being a subdivision of all of those certain lots, tracts or parcels of land lying and being in the 240th District, G. M. of Oconee County, Georgia and being more particularly described on the Plat, which is incorporated herein by reference; and

WHEREAS, it is to the interest, benefit and advantage of Declarant and each and every person who shall hereafter purchase any lot in the Subdivision (hereinafter collectively referred to in the singular as a "Lot" and in the plural as "Lots", and whether or not improvements are constructed thereon) that certain protective covenants governing and regulating the use and occupancy of the Subdivision be established, set forth and declared to be covenants running with the land.

NOW, THEREFORE, for and in consideration of the premises and of the benefits to be derived by Declarant and each and every subsequent owner of any of the Lots, Declarant does

THIS INSTRUMENT ESTABLISHES A MANDATORY HOMEOWNERS ASSOCIATION BUT DOES NOT SUBMIT THIS DEVELOPMENT TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220 *et seq.*

hereby set up, establish, promulgate and declare the following protective covenants to apply to all of the Lots and to all persons owning the Lots, or any of them, hereafter. These protective covenants shall be binding on all persons claiming under and through the Declarant for a period of twenty (20) years from and after the date of this instrument, at which time such covenants may be extended as hereinafter provided.

1. **Land Use and Building Type.** No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling unit and one ancillary building in keeping with the general scheme of residential use and being ancillary thereto. Any permitted ancillary building must be located in rear of dwelling and be constructed of the same materials as the dwelling to insure that exterior of ancillary building matches the exterior of the dwelling.

2. **Architectural Control.** No building or ancillary building shall be erected, placed or altered on any Lot until the construction plans and specifications and plans showing location of the structure has been approved by the Architectural Control Committee, as described in Paragraph 18 below, as to quality of workmanship and materials, exterior colors, choice of brick or stone, driveway placement and design, harmony of external design with existing structures and as to location with respect to topography, finished grade elevation, and all exterior matters. No fence or walls shall be erected, placed or altered on any Lot nearer to any street than the minimum building set-back line unless similarly approved. Approval shall be obtained as provided in Paragraph 18 below. Any approved ancillary building shall be set back behind front line of the dwelling and shall have exterior constructed of same exterior materials as used on the dwelling.

3. **Dwelling, Cost, Quality and Size.** It being the intention and purpose of this covenant to assure that all dwellings shall be of the quality of workmanship and materials, and of a minimum size, the main structure, exclusive of open porches, shall be not less than Twenty Two Hundred (2200) square feet with a minimum of Eighteen Hundred (1800) square feet of which shall be heated and cooled space. All dwellings must be erected in conformity with Oconee County regulations concerning minimum standards. All dwellings must have architectural singled roofs. All foundations must be constructed of brick or stone. No stucco may be used for either foundation cover or on exterior of dwelling. No vinyl siding may be used on any portion of the exterior of a dwelling. All exterior siding must be hardiboard, brick or stone.

4. **Building Location.** No building shall be located on any Lot nearer to the boundary or property lines of such Lot than as shown on the Plat as the minimum set back lines. Steps and walkways shall not be considered as 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.

5. **Easements; Sidewalks; Tree Installation.** Easements for installation and maintenance of utilities, sidewalks, stormwater management easements, slope easements and drainage facilities are reserved as shown on the Plat. Drainage flow shall not be obstructed nor diverted from drainage or utility easements as designated above or on the recorded Plat.

5.1. **Sign and Landscaping Easements.** Lots 1 and 32 shall be conveyed subject to Entrance Sign Easements as shown on the Plat. In addition, Lot 1 shall be conveyed subject to

10' Landscaping Easement and No Access Easement as shown on the Plat. Declarant, and the Association after the Declarant has relinquished control of the management of the Subdivision to the Association, shall have the right to enter in and upon the foregoing easements for purposes of installation, maintenance and repair of any improvements, including landscaping material, installed or to be installed within such easements. The owner of Lot 1 shall not damage or alter the berm or any landscaping installed on the berm to be constructed and maintained within the 10' Landscape Easement.

5.2. **Sidewalks.** Each Lot owner, including Third Party Builders (as herein defined), at such Lot owner's expense, shall at same time as the driveway is poured, install a sidewalk along all streets or roadways adjoining such Lot. The sidewalk shall be concrete and shall be four (4') feet wide and located three (3') feet back of the curb.

6. **Nuisances; Vacant Lot Upkeep.** No noxious or offensive activities shall be carried on or upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the Subdivision neighborhood. All vacant Lots shall be maintained by the owner of such Lot and shall be kept free from debris and litter and mowed regularly. In the event an owner fails to maintain a vacant Lot, Declarant, and after the Declarant has relinquished control of the management of the Subdivision to the Homeowners' Association, the Association, may have such vacant Lot maintained and specially assess such Lot for the cost of such maintenance.

7. **Temporary Structures.** No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

8. **Fences; Mailboxes.** Only wood or ornamental iron fencing or walls, conforming architecturally to the principal dwelling located on a lot, shall be erected or constructed on a Lot nearer to a public street or road than the rear line of the dwelling on such Lot. Fencing along side and rear of dwelling must consist of black coated vinyl chain link. All fencing and walls must be approved by the Architectural Control Committee prior to installation. All mailboxes must match and be of type and material as dictated by the Architectural Control Committee.

9. **Clothes Lines and Tanks.** No clotheslines, drying racks or fences used for drying clothes shall be constructed or permitted on any lot. No exposed above ground tanks shall be permitted for the storage of fuel, water or any other use.

10. **Signs.** No sign of any kind shall be displayed to the public view on any Lot except for one (1) sign of not more than four (4) square feet advertising such Lot for sale or rent or signs used by a builder to advertise the Lot during the construction and sales period or to advertise an established model home.

11. **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.

12. **Livestock and Poultry.** 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.

13. **Garbage and Refuse Disposal.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All containers, incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

14. **Sewerage Disposal.** No individual sewerage-disposal system shall be permitted on any Lot unless such system is designed, 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 the appropriate governmental authorities.

15. **Sight Distance at Intersections.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) feet and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points fifteen (15) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines as extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of the driveway pavement of such Lot. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

16. **Common Area Maintenance and Use; No Implied Rights.** Declarant may transfer or convey to the Association at any time and from time to time any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be accepted by the Association upon delivery of any personal property or upon recordation of an instrument of conveyance of any interest in real property, and the property shall thereafter be common areas and elements, which may include but not be limited to the Green Space & Amenity Area shown on the Plat, and shall be maintained by the Declarant, or the Association once Declarant relinquishes control as provided herein, and all costs for maintenance, repair, improvement, and insurance of common areas and elements shall be lien assessable against the Lot Owners as provided for herein, both prior to and after Declarant transfers or conveys such common areas and elements. The Amenity Area may consist of pavilion, play area for children, and associated parking, although Declarant is not required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. All dues paying Lot owners may use Amenity Area regardless of whether or not such Lot owner is a resident of the Subdivision.

17. **Storm Water Detention Facilities and Drainage Easements.** In addition to any other common elements associated with Property, all stormwater detention facilities and their related easements shall be common elements to be owned and enjoyed by the Lot Owners. These elements shall be maintained by the Association provided by the laws and regulations of Oconee

County and the State of Georgia, and all costs for maintenance, repair, improvement, and insurance shall be lien assessable to the same extent as for other common elements as provided for herein.

18. **Architectural Control Committee.** The Architectural Control Committee shall be composed of the principals and/or officers of **Dickens Builders, Inc.** The majority of the Architectural Control Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Architectural Control Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Architectural Control Committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this instrument. The approval or disapproval of the Architectural Control Committee as required by this instrument shall be in writing. In the event the Architectural Control Committee, or its designated representative, fails to approve or disapprove plans and specifications within thirty (30) days after such plans and specifications shall have been submitted to it, then the approval of the Architectural Control Committee shall be deemed to have been given and compliance with the related covenants shall be deemed to have been made. For any Lot Owner, or its agent, to rely on the provisions of this section for failure of the Committee to respond with the time period designated, any such person or entity seeking approval of plans and specifications must first have made such request in writing and transmitted same to Architectural Control Committee via certified mail, return receipt requested to **3982 Hog Mountain Road, Watkinsville, Georgia 30677**, or such other address as the Committee may designate.

19. **Insurance.** The Declarant, and after the Declarant has relinquished control of the management of the Subdivision and the within restrictions to the Homeowners' Association as provided herein, the Board of Directors of the Association or its duly authorized agent, shall have the authority to and shall obtain insurance for all improvements on the common areas, including the storm water detention facilities, against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief, in amounts sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard and shall also obtain a multi-peril public liability policy covering the common areas and storm water detention facilities and all damage or injury caused by negligence of the Association or any of its agents. All such insurance coverage obtained shall be written in the name of the Association and all such policies shall be written by accompanied license to do business in the State of Georgia, and all policies shall be for the benefit of the Association and its mortgagees, if any, as their interest may appear.

20. **Homeowner's Association.**

20.1 **The Association.**

The Declarant, upon relinquishing control of the common areas and elements, will cause to be formed a Homeowners Association to manage the common areas and elements, storm water detention facilities, and otherwise enforce these covenants.

20.2 Membership.

Every person who is an Owner of a Lot shall be a member of the Association; provided, however, that any Person who owns such interest merely as security for the performance of an obligation shall not be a member of the Association.

20.3 Classes of Membership; Voting Rights.

The Association shall have one class of membership.

20.4 Suspension of Membership Rights.

The membership rights of any member, including the right to vote, may be suspended by the Association's Board of Directors pursuant to authority granted in the Association's By-Laws, as amended from time to time. Any such suspension shall not affect such members' obligations to pay assessments past due or coming due during the period of suspension and shall not affect the permanent charge and lien on the members' property in favor of the Association.

20.5 Meetings of the Membership.

All matters concerning meetings of members of the Association, including the time in which and the manner in which notice of any of said meetings shall be given to members of the quorum and percentage vote required for the transaction of business of any meetings, shall be specified in this Declaration, in the By-Laws of the Association as amended from time to time or by law.

21. Assessments.

21.1. Creation of the Lien and Personal Obligation for Assessments.

Each Lot Owner, by acceptance of a deed or other conveyance for any lot being a part of the Property, whether or not it shall be so expressed in any deed or other conveyance, shall be deemed to covenant and agreed to pay the Declarant or the Association, as the case may be: (a) Annual assessments and charges and (b) Special assessments; such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interests thereon on the land, shall be a continuing lien upon the property against which each such assessment is made and shall also be the personal obligation of the person who is the record owner of the property at the time the assessment fell due.

21.2. Purpose of Assessment.

The assessments levied under this Section 21 shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the members and their tenants and, in particular, for the servicing, improvement, insuring and maintaining the common areas and elements and other facilities related thereto devoted to such purposes and related to the use and enjoyment of the Property, and for the maintenance of the landscaped entrance area or areas of the Subdivision, including, but not limited to, the payment of any taxes and insurance thereon and

repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof. Such portion of the annual assessments levied by the Association under this Section 21 as may be necessary for such purposes shall be devoted to promoting the recreation, health, safety and welfare of the members and their tenants and establishing and maintaining reserves for the maintenance, repair, replacement and operation of the common areas and elements and other facilities and the entrance area or areas.

21.3. Basis of Annual Assessments.

The annual assessment allocated and charged to each lot owner shall be set annually by the Declarant or the Board of Directors of the Association, as the case may be.

21.4. Special Assessments.

At the discretion of Declarant prior to Declarant relinquishing control of, or turning over, the Subdivision to the Association, or once the Association has control of the Subdivision then upon the affirmative vote of the holders of fifty-one percent (51%) or more of the vote of those then entitled to vote of all classes of membership of the Association, Declarant or the Association, as the case may be, may levy and collect a specific special assessment so authorized for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction or unexpected repair or replacement of a capital improvement upon the common areas and elements, including any necessary fixtures or personal property related thereto; or for the purpose of increasing the annual assessment by an amount in excess of what is authorized by this Section.

21.5. Equality of Assessment among Lot Owners.

No Lot within the Property shall bear a higher assessment than any other Lot within the Subdivision; *provided, however*, that Declarant, or the Association's Board of Directors as the case may be, may establish a different level of assessment between an improved Lot containing a dwelling and an unimproved vacant Lot, provided such difference is based upon reasonable criteria.

21.6. Date of Commencement of Annual Assessments; Due Dates.

(a) Except as excluded in subsection 21.6(d) below, an initial annual assessment shall be collected at the closing on the purchase of a Lot from the Purchaser of such Lot and shall be prorated for the days remaining in the year from and after such closing.

(b) The Declarant, or the Association's Board of Directors as the case may be, shall send written notice of the annual assessment and the amount of such assessment to every member subject thereto at least ten (10) days in advance of each annual assessment. Unless otherwise provided by the Association's Board of Directors, the entire amount of the annual assessment for each Lot Owner shall become due and payable to the Declarant or Association, as the case may be, on the 15th day of January of each year and shall be paid without further notice; provided however that in the event the Declarant or the Board of Directors shall fail to send written notice of the annual assessment to members at least ten (10) days prior to the annual assessment period the payment for the annual assessment shall not be due until ten (10) days after such notice is given; the failure to

notify ten (10) days prior to the annual assessment period shall not however reduce the amount of the assessment due and payable.

The annual assessment shall be established on a calendar year basis and shall commence as to each member when he or she becomes a lot owner.

The first annual assessment payable with respect to a Lot shall be adjusted according to the number of days remaining in the calendar year following the date of purchase of a Lot.

(c) The Declarant, or the Association as the case may be, shall, upon demand at any time, furnish to any member liable for any assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. A reasonable charge, as determined by the Board of Directors may be made for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(d) Lots owned by Declarant, or principals of, or entities affiliated with, Declarant and Third Party Builders ("Third Party Builders" being defined as an individual or entity that regularly constructs houses for sale as a business enterprise and not one constructing a personal residence on a Lot) shall not be subject to annual or special assessments until such time as any such Lot shall be sold and conveyed to someone or some entity not meeting the foregoing exclusions, whether or not such Lot has been improved with a dwelling.

21.7. Effective Nonpayment of Assessment: the Personal Obligation; the Lien; Remedies of the Association.

(a) If an assessment is not paid on or before the date when due then such assessment shall become delinquent and shall, together with such interest thereon and the cost of the collection thereof, including but not limited to attorney fees and recording costs to record a lien against the delinquent owner's property, become a continuing lien on the delinquent owner's property which shall bind such property in the hands of the then owner, his heirs, designees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the then owner to pay such assessments shall remain his personal obligation and shall also pass to his successors in title. Such owners shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which he was obligated to pay immediately preceding the transfer; and such owner and such successors in title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such owners and successors in title creating any indemnification of the owner or any relationship of principal and surety as between themselves.

(b) If assessment is not paid within thirty (30) days after the due date, such assessment shall bear interest from the date of the delinquency at the rate of twelve percent (12%) per annum, and the Declarant, or the Association as the case may be, may bring legal action against the owner personally obligated to pay the same or foreclose its lien against such owner's property in which event, interest, costs (e.g., lien recording costs) and actual attorney's fees shall be added to the amount of such assessment as may then be due. Each owner by acceptance of a deed or other conveyance of his or her property, invests in the Association or its agents the right and power to

bring all actions against him or her personally for the collection of such charges as a debt and to foreclose the aforesaid lien in an appropriate proceeding and lower equity. The lien provided for in this Section shall be in favor of the Declarant, or the Association as the case may be, and shall be for the benefit of all other members. The Declarant, or the Association as the case may be, acting on behalf of the other members shall have the power to bid in the owners' property at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No member may waive or otherwise escape liability for the assessment provided for herein by non-use of the common areas and elements and facilities. The Declarant, or the Association as the case may be, shall not waive any liens or rights it may have against any member or such member's Lot without the approval of holders of fifty-one percent (51%) or more of the vote of those then entitled to vote all classes of membership.

(c) If the assessment is not paid within thirty (30) days after the due date, the Declarant, or the Association as the case may be, may also suspend the membership rights of the delinquent member, including the right to vote, the right of enjoyment in and to the common areas and elements and facilities and the right to receive and enjoy such servicing and other benefits as may then be provided by the Association. Any such suspension shall not affect such members obligation to pay assessments, due during the period of such suspension and shall not effect the permanent charge and lien on such members property in favor of the Association.

21.8. Subordination of Charges and Liens to Mortgages.

(a) The liens and permanent charges of all assessments and charges authorized herein (annual, special or otherwise) with respect to any restrictive property is hereby made subordinate to the lien of any first mortgage placed on such property if, but only if, all assessments and charges with respect to such property authorized herein having a due date on or prior to the date of the mortgage as filed of record have been paid. The liens and permanent charges hereby subordinated are only such liens or charges as relate to assessments and charges authorized hereunder having a due date subsequent to the date such mortgage is filed of record and prior the satisfaction, cancellation or foreclosure of such mortgage or the sale or transfer of the mortgage property pursuant to any proceeding in lieu of foreclosure or the sale of transfer of the mortgage property pursuant to a sale under power contained in such mortgage.

(b) Such subordination is merely a subordination and shall not relieve the owner of the mortgaged property of his personal obligation to pay all assessments and charges coming due at any time when he is the owner of such property; shall not relieve such property from the liens and permanent charges provided for herein (except to the extent a subordinated lien or permanent charge is extinguished as a result of such subordination as against a mortgagee or such mortgagee's assignee or transferee by foreclosure or by sale under power); and no sale or transfer of such property to the mortgagee or to any other person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure or pursuant to a sale under power, shall relieve any existing or previous owner of such property of any personal obligation or relieve such property or the then owner of such property from liability for any assessment or charges authorized hereunder become due after such sale and transfer.

22. **Term.** The covenants contained in this instrument are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from and after the date this instrument is recorded, after which time such covenants shall automatically extended for successive periods of twenty (20) years until the recordation of an instrument of termination within two (2) years of the expiration of the initial twenty (20)-year period or any extension thereof, such instrument having been executed by a minimum of fifty-one percent (51%) of the record owners of the Subdivision.

23. **Enforcement.** Enforcement of the covenants contained in this instrument shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

24. **Severability.** Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions of this instrument which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed under seal, as of the day and year first above written.

DECLARANT:

DICKENS BUILDERS, INC., a Georgia corporation

By: Matthew W. Dickens, V.P.
Matthew W. Dickens, Vice President

Attest: Jason D. Dickens, Secretary
Jason D. Dickens, Secretary

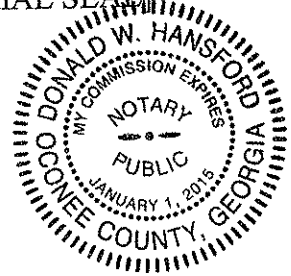
Executed in the presence of:

[Signature]
Unofficial Witness

[Signature]
Notary Public

Commission Expiration Date: 1-1-15

[NOTARIAL SEAL]



AFFIX CORP. SEAL