

## THIS INSTRUMENT PREPARED BY:

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7156777v1

STATE OF ALABAMA  
COUNTY OF BALDWIN

**SECOND AMENDMENT TO DECLARATION OF CONDITIONS,  
COVENANTS AND RESTRICTIONS OF DIAMANTE SUBDIVISION**

THIS SECOND AMENDMENT TO DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS (this "Amendment") is made this 25<sup>th</sup> day of June, 2021 (the "Effective Date"), by 68V DIAMANTE 2017, LLC, an Alabama limited liability company ("Declarant").

WITNESSETH:

WHEREAS, on October 11, 2018, Declarant recorded that certain Declaration of Conditions, Covenants and Restrictions of Diamante Subdivision (the "Subdivision") at Instrument Number 1726237, as amended by that certain First Amendment to Declaration of Conditions, Covenants and Restrictions for the Subdivision recorded at Instrument Number 1843716 (collectively, the "Declaration"), regarding certain real property located in Baldwin County, Alabama and described on that subdivision plat for Diamante Subdivision, Phase One, recorded at Slide 2652E, and Diamante Subdivision, Phase Two, recorded at Slides 2730-C and 2730-D, and amended at Slides 2734-D and 2734-E, all in the Office of the Judge of Probate of Baldwin County, Alabama (the "Public Records");

WHEREAS, Declarant is the owner of all of that certain property shown on the plat of subdivision for Diamante Phase Three recorded at Slides 2786-A and 2786-B in the Public Records (the "Phase 3 Plat");

WHEREAS, Section 10.02 of the Declaration permits Declarant to amend the Declaration to annex any or all of the Additional Property, which includes all of the property shown on the Phase 3 Plat (the "Phase 3 Property");

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

WHEREAS, Declarant desires 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.

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. Annexation of Phase 3 Property. The Phase 3 Property, including any improvements located thereon and hereafter constructed, is hereby annexed and subjected to the provisions of the Declaration, and such property shall be held, sold, transferred, conveyed, used, and occupied subject to the covenants, conditions, restrictions, easements, and terms set forth in the Declaration, as amended hereby. Upon the recording of this Amendment, each lot shown on the Phase 3 Plat shall be a "Lot" and all common areas shown on the Phase 3 Plat shall be "Common Area," as those terms are defined in the Declaration.

4. 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 Diamante 2017, LLC, an Alabama limited liability company

By: 68 Ventures, LLC, an Alabama limited liability company, as its Manager

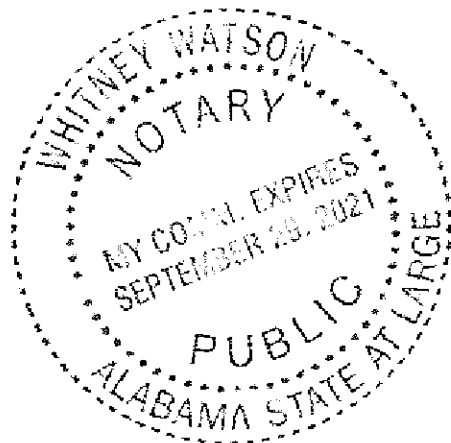
By:   
Nathan L. Cox  
As Its Manager

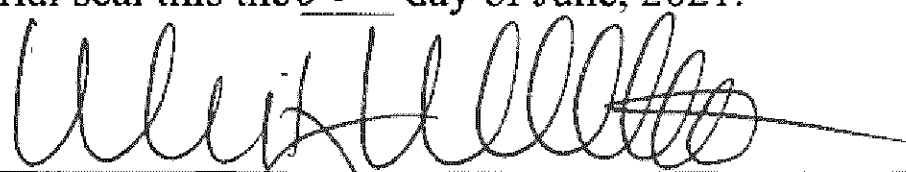
STATE OF ALABAMA :  
COUNTY OF BALDWIN :

I, the undersigned Notary Public, in and for said State and said County, hereby certify that Nathan L. Cox, whose name as Manager of 68 Ventures, LLC, an Alabama limited liability company, as the Manager of 68V Diamante 2018, 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 28th day of June, 2021.

{SEAL}



  
NOTARY PUBLIC  
My Commission Expires: Sept. 29, 2021

**MORTGAGEE'S CONSENT AND SUBORDINATION**

SMARTBANK ("Secured Lender"), the mortgagee under that certain Mortgage and Security Agreement, executed by 68V Diamante 2017, LLC, an Alabama limited liability company, dated May 18, 2017 and recorded in Instrument Number 1869308 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 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 and Subordination to be executed by and through its duly authorized representative as of the 28<sup>th</sup> day of June, 2021.

SMARTBANK

By: [Signature]  
Name: Ed Hammele  
As Its: SVP

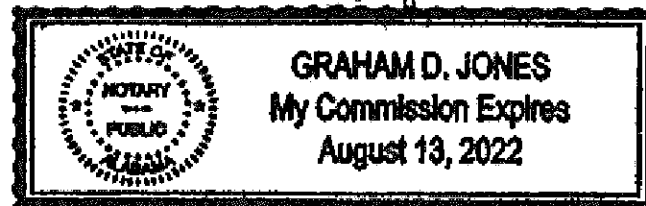
STATE OF Alabama  
COUNTY OF Baldwin

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that Ed Hammele as the SVP for SmartBank, 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 28<sup>th</sup> day of June, 2021.

[Signature]  
Notary Public

My Commission Expires: 13 Aug 2022



### MORTGAGEE'S CONSENT AND SUBORDINATION

D.R. HORTON, INC. – BIRMINGHAM, an Alabama corporation ("Secured Lender"), the mortgagee under that certain Earnest Money Mortgage, executed by 68V Diamante 2017, LLC, an Alabama limited liability company, dated May 18, 2017 and recorded in Instrument Number 1634580 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 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 and Subordination to be executed by and through its duly authorized representative as of the 28<sup>th</sup> day of June, 2021.

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

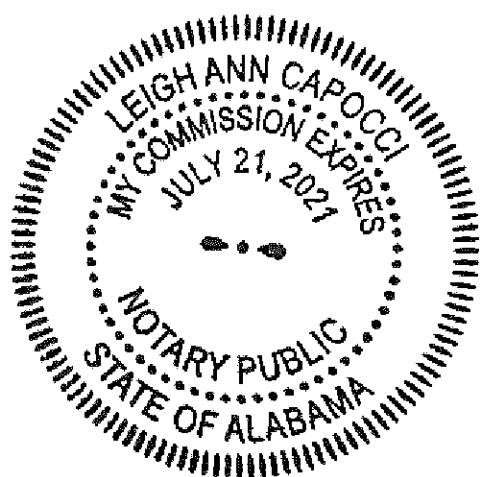
By: \_\_\_\_\_

Rusty K. Gilbert  
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 Rusty K. Gilbert, 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, he has executed the same voluntarily for and as the act of said entity.

Given under my hand and seal this 28<sup>th</sup> day of June, 2021.



\_\_\_\_\_  
Notary Public

My Commission Expires: