

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Patricia Damico, Lenna Lucas, and Brianna Moon, individually and on behalf of all others similarly situated, Joshua and Brettany Buetow, Edward and Sylvia Dengg, Czara and Chad England,

Plaintiffs,

vs.

Lennar Carolinas, LLC, Spring Grove Plantation Development, Inc., Super Concrete of SC, Inc. Southern Green, Inc., TJB Trucking/Leasing, LLC, Paragon Site Constructors, Inc.,

Defendants.

Lennar Carolinas, LLC

Third-Party Plaintiff,

vs.

Civil Site Environmental, Inc., The Earthworks Group, Inc., Volkmar Consulting Services, LLC, Geometrics Consulting, LLC, Land/Site Services, Inc. Myers Landscaping, Inc., Knight's Concrete Products, Inc., Knight's Redi-Mix, Inc., Coastal Concrete Southeast, LLC, Coastal Concrete Southeast II, LLC, and Manale Landscaping, LLC,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-08-02424

THIRD-PARTY SUMMONS

RECEIVED

Oct 01 2026

S.C. SUPREME COURT

TO: THE THIRD-PARTY DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Third-Party Complaint in Lennar Carolinas, LLC's Answer to Plaintiffs' Third Amended Complaint, Cross-

Claims, and Third-Party Complaint (hereinafter, "Lennar's Third-Party Complaint"), a copy of which is herewith served upon you, and to serve a copy of your Answer thereto on the undersigned at their office located at 850 Morrison Drive, Suite 400, Charleston, South Carolina 29403, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer the Lennar's Third-Party Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in Lennar's Third-Party Complaint.

Respectfully submitted,

s/ Taylor H. Stair

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Attorneys for Lennar Carolinas, LLC

June 16, 2026
Charleston, South Carolina

STATE OF SOUTH CAROLINA

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Lennar Carolinas, LLC

Third-Party Plaintiff,

vs.

Civil Site Environmental, Inc., The Earthworks Group, Inc., Volkmar Consulting Services, LLC, Geometrics Consulting, LLC, Land/Site Services, Inc. Myers Landscaping, Inc., Knight's Concrete Products, Inc., Knight's Redi-Mix, Inc., Coastal Concrete Southeast, LLC, Coastal Concrete Southeast II, LLC, and Manale Landscaping, LLC,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-08-02424

**LENNAR CAROLINAS, LLC'S
ANSWER TO PLAINTIFFS' THIRD
AMENDED COMPLAINT,
CROSS-CLAIMS, AND
THIRD-PARTY COMPLAINT**

Defendant Lennar Carolinas, LLC ("Lennar") answers the Third Amended Complaint of the above-named Plaintiffs, asserts cross-claims against Defendants Spring Grove Plantation Development, Inc. ("Spring Grove"), Super Concrete of SC, Inc. ("Super Concrete"), Southern

Green, Inc. (“Southern Green”), TJB Trucking/Leasing, LLC (“TJB”), and Paragon Sitework Constructors, Inc. (“Paragon”), and asserts third-party claims against Civil Site Environmental, Inc. a/k/a CSE (“CSE”), The Earthworks Group, Inc. (“Earthworks”), Volkmar Consulting Services, LLC (“Volkmar”), Geometrics Consulting, LLC (“Geometrics”), Land/Site Services, Inc. (“Land/Site”), Myers Landscaping, Inc. (“Myers”), Knight’s Concrete Products, Inc. (“Knight’s Concrete”), Knight’s Redi-Mix, Inc. (“Knight’s Redi-Mix”), Coastal Concrete Southeast, LLC and Coastal Concrete Southeast II, LLC (collectively “Coastal Concrete”), and Manale Landscaping, LLC (“Manale”), as follows:

FOR A FIRST DEFENSE

Each and every allegation of the Complaint not hereinafter specifically admitted is denied and strict proof thereof is demanded.

FOR A SECOND DEFENSE

1. Responding to Paragraph 1 of the Third Amended Complaint, Lennar is without sufficient information to admit or deny Plaintiffs’ allegations as to the citizenship, residency, or living arrangements of Plaintiffs Lenna Lucas, Patricia Damico, and Brianna Moon, and therefore denies the same. Lennar denies the remaining allegations in Paragraph 1 and expressly denies Plaintiffs’ allegations regarding the requirements for class certification under Rule 23, SCRCF.

2. Responding to Paragraph 2 of the Third Amended Complaint, Lennar craves reference to the public records filed with the Berkeley County Register of Deeds and denies any inconsistent allegations in Paragraph 2. Lennar denies any remaining allegations in Paragraph 2 and expressly denies any allegation that Patricia Damico, Lenna Lucas, Brianna Moon, and any homeowner in The Abbey are similarly situated.

3. Lennar denies the allegations of Paragraph 3 of the Third Amended Complaint. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCF.

4. Lennar denies the allegations of Paragraph 4 of the Third Amended Complaint. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCF.

5. Lennar denies the allegations of Paragraph 5 of the Third Amended Complaint. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCF.

6. Lennar denies the allegations of Paragraph 6 of the Third Amended Complaint. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCF.

7. Lennar denies the allegations of Paragraph 7 of the Third Amended Complaint. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCF.

8. Lennar denies the allegations of Paragraph 8 of the Third Amended Complaint. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCF.

9. Lennar denies the allegations of Paragraph 9 of the Third Amended Complaint. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCF.

10. Lennar denies the allegations of Paragraph 10 of the Third Amended Complaint. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCP.

11. Responding to Paragraph 11 of the Third Amended Complaint, Lennar is without sufficient information to admit or deny the allegations therein and accordingly denies the same. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCP.

12. Responding to Paragraph 12 of the Third Amended Complaint, Lennar is without sufficient information to admit or deny the allegations therein and accordingly denies the same. Lennar expressly denies any allegation that this suit constitutes a class action or that Plaintiffs can satisfy the requirements of Rule 23, SCRCP.

13. Responding to Paragraph 13 of the Third Amended Complaint, Lennar is without sufficient information to admit or deny Plaintiffs' allegations as to the citizenship, residency, or living arrangements of Plaintiffs, and therefore denies the same. Lennar craves reference to the public records filed with the Berkeley County Register of Deeds and denies any inconsistent allegations in Paragraph 13.

14. Responding to Paragraph 14 of the Third Amended Complaint, Lennar craves reference to the public records filed with the Berkeley County Register of Deeds and denies any inconsistent allegations in Paragraph 14. Lennar admits only that it purchased lots in The Abbey at Spring Grove Plantation, contracted with others for the construction of residences on those lots, and sold the residences. Lennar denies any remaining allegations of Paragraph 14.

15. Responding to Paragraph 15 of the Third Amended Complaint, Lennar admits only that it is and was at all relevant times authorized to conduct business in South Carolina and has conducted business in Berkeley County, South Carolina. Lennar denies the remaining allegations of Paragraph 15 concerning Lennar and is without sufficient information to admit or deny the remaining allegations of Paragraph concerning the other Defendants.

16. Lennar denies the allegations of Paragraph 16 of the Third Amended Complaint.

17. Responding to Paragraph 17 of the Third Amended Complaint, Lennar alleges it undertook to and did comply with any and all applicable duties, laws, regulations, codes, or other standards. Lennar is without sufficient information to admit or deny the remaining allegations of Paragraph 17.

18. Lennar denies the allegations of Paragraph 18 of the Third Amended Complaint.

19. Paragraph 19 of the Third Amended Complaint states legal conclusions which require no response from Lennar. To the extent a response is required, Lennar is without sufficient information to admit or deny the allegations therein and accordingly denies the same.

20. Responding to Paragraph 20 of the Third Amended Complaint, Lennar admits only that one or more of the defendants participated in the construction of the residences located in The Abbey at Spring Grove Plantation and that Lennar undertook to and did comply with any and all applicable duties, laws, regulations, codes, or other standards. Lennar denies the remaining allegations of Paragraph 20.

21. Lennar denies the allegations of Paragraph 21 of the Third Amended Complaint.

22. Responding to Paragraph 22 of the Third Amended Complaint, Lennar admits only that it is and was at all relevant times authorized to conduct business in South Carolina and

conducted business in Berkeley County, South Carolina. Lennar denies the remaining allegations of Paragraph 22.

23. Responding to Paragraph 23 of the Third Amended Complaint, Lennar admits upon information and belief that Spring Grove is a corporation organized and existing under the laws of the State of South Carolina, that Spring Grove is authorized to conduct business in South Carolina, and that Spring Grove's involvement with The Abbey includes, but is not limited to, ownership and development for residential purposes of the property comprising Spring Grove Plantation and The Abbey at Spring Grove Plantation and the sale of residential lots in The Abbey to Lennar.

24. Responding to Paragraph 24 of the Third Amended Complaint, Lennar admits only that Spring Grove's involvement with The Abbey includes, but is not limited to, ownership and development for residential purposes of the property comprising Spring Grove Plantation and The Abbey at Spring Grove Plantation and the sale of residential lots in The Abbey to Lennar. Lennar admits only that it purchased lots in The Abbey at Spring Grove Plantation, contracted with others for the construction of residences on those lots, and sold the residences. Lennar denies any allegations inconsistent therewith and denies the remaining allegations of Paragraph 24.

25. Lennar admits the allegations of Paragraph 25 of the Third Amended Complaint upon information and belief.

26. Lennar admits the allegations of Paragraph 26 of the Third Amended Complaint upon information and belief.

27. Lennar admits the allegations of Paragraph 27 of the Third Amended Complaint upon information and belief.

28. Lennar admits the allegations of Paragraph 28 of the Third Amended Complaint upon information and belief.

29. Paragraph 29 of the Third Amended Complaint states a legal conclusion and requires no response from Lennar. To the extent a response is required, Lennar denies the allegations of Paragraph 29.

30. Responding to Paragraph 30 of the Third Amended Complaint, Lennar admits only that it purchased lots in The Abbey at Spring Grove Plantation, contracted with others for the construction of residences on those lots, and sold the residences. Lennar denies any remaining allegations of Paragraph 30.

31. Responding to Paragraph 31 of the Third Amended Complaint, Lennar admits only that Spring Grove's involvement with The Abbey includes, but is not limited to, ownership and development for residential purposes of the property comprising Spring Grove Plantation and The Abbey at Spring Grove Plantation and the sale of residential lots in The Abbey to Lennar. Lennar admits only that it purchased lots in The Abbey at Spring Grove Plantation, contracted with others for the construction of residences on those lots, and sold the residences. Lennar denies the remaining allegations of Paragraph 31.

32. Lennar denies the allegations of Paragraph 32 of the Third Amended Complaint.

33. Lennar denies the allegations of Paragraph 33 of the Third Amended Complaint.

34. Lennar denies the allegations of Paragraph 34 of the Third Amended Complaint.

35. Paragraph 35 of the Third Amended Complaint states legal conclusions and requires no response from Lennar. To the extent a response is required, Lennar denies the allegations of Paragraph 35.

36. Paragraph 36 of the Third Amended Complaint states legal conclusions and requires no response from Lennar.

37. Responding to Paragraph 37 of the Third Amended Complaint, Lennar realleges its responses to the preceding paragraphs as if repeated verbatim herein.

38. Responding to Paragraph 38 of the Third Amended Complaint, Lennar is without sufficient information to admit or deny the allegations therein because the term “Developer Defendants” is unclear and not defined. Lennar admits only that Spring Grove’s involvement with The Abbey includes, but is not limited to, ownership and development for residential purposes of the property comprising Spring Grove Plantation and The Abbey at Spring Grove Plantation and the sale of residential lots in The Abbey to Lennar. Lennar admits only that it purchased lots in The Abbey at Spring Grove Plantation, contracted with others for the construction of residences on those lots, and sold the residences. Lennar denies any allegations inconsistent therewith and denies the remaining allegations of Paragraph 38.

39. Responding to Paragraph 39 of the Third Amended Complaint, Lennar admits only that it purchased lots in The Abbey at Spring Grove Plantation, contracted with others for the construction of residences on those lots, and sold the residences. Lennar denies any allegations inconsistent therewith and denies the remaining allegations of Paragraph 39.

40. Responding to Paragraph 40 of the Third Amended Complaint, Lennar admits only that it purchased lots in The Abbey at Spring Grove Plantation, contracted with others for the construction of residences on those lots, and sold the residences. Lennar denies any allegations inconsistent therewith and denies the remaining allegations of Paragraph 40.

41. Lennar denies the allegations of Paragraph 41 of the Third Amended Complaint.

42. Lennar denies the allegations of Paragraph 42 of the Third Amended Complaint.

- 43. Lennar denies the allegations of Paragraph 43 of the Third Amended Complaint.
- 44. Lennar denies the allegations of Paragraph 44 of the Third Amended Complaint.
- 45. Lennar denies the allegations of Paragraph 45 of the Third Amended Complaint.
- 46. Lennar denies the allegations of Paragraph 46 of the Third Amended Complaint.
- 47. Lennar denies the allegations of Paragraph 47 of the Third Amended Complaint.
- 48. Lennar denies the allegations of Paragraph 48 of the Third Amended Complaint.
- 49. Lennar denies the allegations of Paragraph 58 of the Third Amended Complaint.

IN RESPONSE TO THE FIRST CAUSE OF ACTION
(Negligence and Gross Negligence)

50. Responding to Paragraph 50 of the Third Amended Complaint, Lennar realleges its responses to the preceding paragraphs as if repeated verbatim herein.

51. Lennar denies the allegations of Paragraph 51 of the Third Amended Complaint including all subparts.

- 52. Lennar denies the allegations of Paragraph 52 of the Third Amended Complaint.

IN RESPONSE TO THE SECOND CAUSE OF ACTION
(Negligent Misrepresentation)

53. Responding to Paragraph 53 of the Third Amended Complaint, Lennar realleges its responses to the preceding paragraphs as if repeated verbatim herein.

- 54. Lennar denies the allegations of Paragraph 54 of the Third Amended Complaint.

55. Paragraph 55 of the Third Amended Complaint states legal conclusions which requires no response from Lennar. To the extent a response is required, Lennar craves reference to controlling South Carolina law and denies any inconsistent allegations in Paragraph 55.

- 56. Lennar denies the allegations of Paragraph 56 of the Third Amended Complaint.
- 57. Lennar denies the allegations of Paragraph 57 of the Third Amended Complaint.

58. Lennar denies the allegations of Paragraph 58 of the Third Amended Complaint.

59. Lennar denies the allegations of Paragraph 59 of the Third Amended Complaint.

IN RESPONSE TO THE THIRD CAUSE OF ACTION
(Breach of Implied Warranties)

60. Responding to Paragraph 60 of the Third Amended Complaint, Lennar realleges its responses to the preceding paragraphs as if repeated verbatim herein.

61. Lennar denies the allegations of Paragraph 61 of the Third Amended Complaint.

62. Lennar denies the allegations of Paragraph 62 of the Third Amended Complaint.

63. Lennar denies the allegations of Paragraph 63 of the Third Amended Complaint.

IN RESPONSE TO THE FOURTH CAUSE OF ACTION
(Breach of Implied Warranty of Fitness for Particular Purpose)

64. Responding to Paragraph 64 of the Third Amended Complaint, Lennar realleges its responses to the preceding paragraphs as if repeated verbatim herein.

65. Paragraph 65 of the Third Amended Complaint states legal conclusions which requires no response from Lennar. To the extent a response is required, Lennar craves reference to controlling South Carolina law and denies any inconsistent allegations in Paragraph 65.

66. Lennar denies the allegations of Paragraph 66 of the Third Amended Complaint.

67. Responding to Paragraph 67 of the Third Amended Complaint, Lennar is without sufficient information to admit or deny Plaintiffs' allegations regarding Plaintiffs' reliance on Defendants' skill and judgment. Lennar denies the remaining allegations of Paragraph 67.

68. Lennar denies the allegations of Paragraph 68 of the Third Amended Complaint.

69. Lennar denies the allegations of Paragraph 69 of the Third Amended Complaint.

IN RESPONSE TO THE FIFTH CAUSE OF ACTION
(Breach of Implied Warranties as to the Project's Development and Construction)

70. Responding to Paragraph 70 of the Third Amended Complaint, Lennar realleges its responses to the preceding paragraphs as if repeated verbatim herein.

71. Lennar denies the allegations of Paragraph 71 of the Third Amended Complaint.

72. Lennar denies the allegations of Paragraph 72 of the Third Amended Complaint.

73. Lennar denies the allegations of Paragraph 73 of the Third Amended Complaint.

74. Lennar denies the allegations of Paragraph 74 of the Third Amended Complaint.

IN RESPONSE TO THE SIXTH CAUSE OF ACTION
(Violation of the S.C. Unfair Trade Practices Act, S.C. Code § 39-5-10, *et seq.*)

75. Responding to Paragraph 75 of the Thid Amended Complaint, Lennar realleges its responses to the preceding paragraphs as if repeated verbatim herein.

76. Responding to Paragraph 76, Lennar admits only that it was in the business of constructing and selling homes. Lennar denies any remaining allegations of Paragraph 76.

77. Lennar denies the allegations of Paragraph 77 of the Third Amended Complaint.

78. Lennar denies the allegations of Paragraph 78 of the Third Amended Complaint.

79. Lennar denies the allegations of Paragraph 79 of the Third Amended Complaint including all subparts.

80. Lennar denies the allegations of Paragraph 80 of the Third Amended Complaint.

81. Lennar denies the allegations of Paragraph 81 of the Third Amended Complaint.

82. Lennar denies the allegations of Paragraph 82 of the Third Amended Complaint.

83. Lennar denies the allegations of Paragraph 83 of the Third Amended Complaint.

84. Lennar denies the allegations of Paragraph 84 of the Third Amended Complaint.

85. Lennar denies the allegations and any relief sought in the Wherefore clause, including all subparts.

86. Lennar denies each and every allegation not expressly admitted herein.

FOR A THIRD AND AFFIRMATIVE DEFENSE
(Rule 12(b), SCRPC)

87. Lennar asserts the defenses set forth in Rule 12(b) of the South Carolina Rules of Civil Procedure, including, but not limited to, the defense that Plaintiffs fail to state facts sufficient to constitute causes of action against Lennar.

FOR A FOURTH AND AFFIRMATIVE DEFENSE
(Lack of Standing)

88. Plaintiffs lack standing to make the claims asserted against Lennar in this action.

FOR A FIFTH AND AFFIRMATIVE DEFENSE
(Statute of Limitations)

89. Some or all of the claims asserted against Lennar are barred by the applicable statute of limitations and/or repose.

FOR A SIXTH AND AFFIRMATIVE DEFENSE
(Comparative Negligence)

90. Plaintiffs' claims, if any, are barred, or should be reduced, by Plaintiffs' own comparative negligence, carelessness, recklessness, willfulness, and wantonness, in among other things, Plaintiffs' failure to maintain their properties and residences.

FOR A SEVENTH AND AFFIRMATIVE DEFENSE
(Intervening Acts or Omissions)

91. Plaintiffs' claims, if any, are the result of acts or omissions of other entities over whom Lennar had no control, barring Plaintiffs' claims against Lennar.

FOR AN EIGHTH AND AFFIRMATIVE DEFENSE
(Laches)

92. Plaintiffs' claims, if any, are barred by the doctrine of laches.

FOR A NINTH AND AFFIRMATIVE DEFENSE
(Acceptance)

93. The final completion and acceptance of the work undertaken by Lennar pursuant to the original contract and all modifications thereto constitute a complete defense to all claims asserted by Plaintiffs.

FOR A TENTH AND AFFIRMATIVE DEFENSE
(Failure to Make Claim Within Warranty Period)

94. Plaintiffs' claims, if any, are barred due to the failure to make a claim against Lennar within the applicable warranty period.

FOR AN ELEVENTH AND AFFIRMATIVE DEFENSE
(Failure to Mitigate)

95. Plaintiffs failed to mitigate their damages and as a result, Plaintiffs' claims, if any, are barred or should be reduced to the extent Plaintiffs could have taken prompt and reasonable action to avoid the damages claimed.

FOR A TWELFTH AND AFFIRMATIVE DEFENSE
(Limitation on Warranties)

96. Lennar contractually limited its warranty obligations to Plaintiffs, excluding liability for many or all of Plaintiffs' claims, barring Plaintiffs' claims, or barring or limiting Plaintiffs' claimed damages, including Plaintiffs' claims for consequential damages or punitive damages, in whole or in part, against Lennar.

97. The failure to Plaintiffs to give notice of or make any claim for alleged deficiencies in workmanship or materials within the warranty period from the date of completion and acceptance by Plaintiffs constitute a complete defense to all of Plaintiffs' claims.

FOR A THIRTEENTH AND AFFIRMATIVE DEFENSE
(Payment or Release)

98. Plaintiffs' claims are barred by payment or release.

FOR A FOURTEENTH AND AFFIRMATIVE DEFENSE
(Waiver or Estoppel)

99. Plaintiffs waived or are estopped from asserting the claims.

FOR A FIFTEENTH AND AFFIRMATIVE DEFENSE
(Conduct of Plaintiffs)

100. If Plaintiffs sustained injuries and damages in the manner alleged, which injuries and damages are all expressly denied by Lennar, then the alleged injuries and damages were sustained not as the result of any fault, neglect, breach of warranty whether express or implied, or want of due care on the part of Lennar nor of anyone for whose conduct Lennar is in any way responsible, but solely through the fault, neglect, breach, and want of due care of Plaintiffs, all of which will be shown in this action, and for which Plaintiffs can have no recovery against Lennar or alternatively, for which Plaintiffs' recovery should be appropriately reduced.

FOR A SIXTEENTH AND AFFIRMATIVE DEFENSE
(Rule 23(a), SCRPC)

101. Plaintiffs and Plaintiffs' putative class action claims fail to satisfy the requirements of Rule 23(a) of the South Carolina Rules of Civil Procedure, and this action may not be maintained as a class action.

FOR AN SEVENTEENTH AND AFFIRMATIVE DEFENSE
(Prohibition of Punitive Damages)

102. Plaintiffs' claims for punitive damages are barred by the South Carolina Constitution and the Constitution of the United States because no reasonable and well-defined limits are placed on punitive damages awards, because the award and payment of punitive damages would be a windfall and would advance no legitimate state purpose, and because a

punitive damages award would constitute imposition of punishment on Lennar without due process and without adequate notice of substantive rules governing the conduct giving rise to punitive damages.

FOR AN EIGHTEENTH AND AFFIRMATIVE DEFENSE
(Prohibition of Punitive Damages)

103. Lennar denies Plaintiffs' demand for punitive damages. An award of punitive damages under South Carolina law violates the Fifth, Sixth, and Fourteenth Amendments to the Constitution of the United States and Article I, Section 3 of the Constitution of the State of South Carolina in that:

- a. The judiciary's ability to correct a punitive award only upon a finding of passion, prejudice or caprice is inconsistent with due process guarantees;
- b. Any award of punitive damages seeking a compensatory function is inconsistent with due process guarantees;
- c. Any award of punitive damages based upon the wealth of the defendant violates due process guarantees;
- d. The jury's unfettered power to award punitive damages is wholly devoid of meaningful standards, which is inconsistent with due process guarantees;
- e. The standard for punitive damages is void for vagueness;
- f. Plaintiff's claim for punitive damages violates the equal protection clause of the Fourteenth Amendment of the United States Constitution in that the amount of punitive damages is based upon the wealth of the party against whom recovery is sought; and
- g. Plaintiff's claim for punitive damages violates the federal doctrine of separation of powers and Article I, Section 3 of the South Carolina Constitution for the reason that punitive damages are a creation of the judicial branch of the government, which invades the province of the legislative branch of government.

FOR A NINETEENTH AFFIRMATIVE DEFENSE
(Prohibition of Punitive Damages)

104. Lennar pleads any and all standards of limitation regarding the determination of the amount and/or enforceability of punitive damage awards which arose in the decisions of *BMW of North America v. Gore*, 517 U.S. 559 (1996); *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001); *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003); and *Exxon Shipping Co. v. Baker*, 554 U.S. 471 (2008) and their progeny. Cunningham also pleads S.C. Code Ann. § 15-32-510, *et seq.* as a defense.

FOR A TWENTIETH AND AFFIRMATIVE DEFENSE
(Spoliation)

105. Plaintiffs' claims are barred or should be dismissed in whole or in part due to the spoliation of evidence to the extent Plaintiffs destroyed, modified, or otherwise spoiled evidence, including, but not limited to, any repairs of alleged deficiencies without having first given notice to Lennar and without giving Lennar an opportunity to observe the alleged deficiencies.

FOR A TWENTY-FIRST AND AFFIRMATIVE DEFENSE
(Economic Loss Rule)

106. Plaintiffs' claims are barred by the economic loss rule.

FOR A TWENTY-SECOND AND AFFIRMATIVE DEFENSE
(South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act)

107. Plaintiffs' claims are barred and should be stayed or dismissed due to Plaintiffs' failure to comply with the South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Acts, South Carolina Code § 40-59-810, *et seq.*

FOR A TWENTY-THIRD AND AFFIRMATIVE DEFENSE
(Conditions Precedent)

108. Plaintiffs' claims should be dismissed or stayed as Plaintiffs failed to comply with valid, applicable, and mutually enforceable conditions precedent contained in the applicable purchase and sales agreements, covenants, and property records (to include, but not limited to, the regime documents, master deed and bylaws, deeds, construction and sales contracts, and homeowners association documents) to filing suit, including any and all alternative dispute resolution provisions and provisions related to the number of owners who must agree to file a claim or suit.

FOR A TWENTY-FOURTH AND AFFIRMATIVE DEFENSE
(Necessary Parties)

109. Plaintiffs' claims should be dismissed for failure to join necessary, persons, parties, or entities pursuant to Rule 19 of the South Carolina Rules of Civil Procedure.

FOR A TWENTY-FIFTH AND AFFIRMATIVE DEFENSE
(Lack of Impact on Public Interest)

110. Plaintiffs' claim under the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10, *et seq.*, should be dismissed because the alleged actions of Lennar did not have an impact on the public interest.

FOR A TWENTY-SIXTH AND AFFIRMATIVE DEFENSE
(Statutory Bar on Class Action UTPA Claims)

111. Plaintiffs' claim under the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10, *et seq.*, should be dismissed because a party cannot pursue a claim under the Act on behalf of a class.

FOR A TWENTY-SEVENTH AND AFFIRMATIVE DEFENSE
(Subsequent Purchaser Has No UTPA Claim)

112. Plaintiffs' claim under the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10, *et seq.*, should be dismissed because a subsequent purchaser of a residence has no claim under the Act against the original builder or seller of the residence.

FOR A TWENTY-EIGHTH AND AFFIRMATIVE DEFENSE
(*Spearin* Doctrine)

113. If Plaintiffs sustained injuries and damages in the manner alleged, which injuries and damages are all expressly denied by Lennar, then the alleged injuries and damages were sustained as the result of defects in the plans and specifications provided by others.

FOR A TWENTY-NINTH AND AFFIRMATIVE DEFENSE
(Absence of a "Merchant")

114. Plaintiffs' implied warranty of merchantability and implied warranty of fitness for a particular purpose claims, if any, should be dismissed because Lennar is not a merchant and the Uniform Commercial Code, S.C. Code Ann. § 36-2-101, *et seq.*, accordingly does not apply.

FOR A THIRTIETH AND AFFIRMATIVE DEFENSE
(Absence of a "Good")

115. Plaintiffs' implied warranty of merchantability and implied warranty of fitness for a particular purpose claims, if any, should be dismissed because Lennar did not provide a good and the Uniform Commercial Code, S.C. Code Ann. § 36-2-101, *et seq.*, accordingly does not apply.

FOR A THIRTY-FIRST AND AFFIRMATIVE DEFENSE
(Unclean Hands)

116. Plaintiffs' claims, if any, are barred by the doctrine of unclean hands.

FOR A THIRTY-SECOND AND AFFIRMATIVE DEFENSE
(Additional Defenses)

117. Lennar reserves the right to assert and does not waive any addition or further defenses as may be revealed upon any amendments to the pleadings, discovery, or otherwise and reserves the right to amend this Answer to assert any such defenses.

FURTHER ANSWERING AND BY WAY OF CROSS-CLAIMS AND THIRD-PARTY CLAIMS AGAINST THE ABOVE NAMED CO-DEFENDANTS AND THIRD-PARTY DEFENDANTS, LENNAR ALLEGES AS FOLLOWS:

118. Lennar realleges the allegations in the above paragraphs as if repeated verbatim herein.

119. Spring Grove is a corporation organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

120. Spring Grove entered into an agreement with Lennar for the sale and purchase of the lots in The Abbey.

121. Spring Grove provided the grading, building pads, streets and roads, and storm drainage, retention and detention facilities and other storm drainage systems in The Abbey.

122. Super Concrete is a corporation organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

123. Super Concrete's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include grading, foundation slabs and footings, flatwork, formwork, together with all batter boards, forms, reinforcement, and related components.

124. Southern Green is or was a corporation organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

125. Southern Green's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include landscaping and grading.

126. TJB is a corporation organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

127. TJB's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include grading and building pad construction.

128. Paragon is or was a corporation organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

129. Paragon's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include grading and building pad construction.

130. CSE is a corporation organized and existing in South Carolina.

131. CSE's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include civil engineering and design services including preparing the grading plans.

132. Earthworks is a corporation organized and existing in South Carolina.

133. Earthworks' work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include architectural or structural engineering and design services including designing, engineering, and preparing the building drawings and plans for the residences.

134. Volkmar is a limited liability company organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

135. Volkmar's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include geotechnical engineering services including site exploration, investigation, testing, analysis, and approval, preparing designs and specifications for grading, site preparation, groundwater control, fill, compaction, soils, building pads, footing excavations, footings, and slabs, and observation, investigation, testing, administration, and approval of grading, building pads, and footing excavations.

136. Geometrics is a limited liability company organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

137. Geometrics' work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include geotechnical engineering services including observation, investigation, testing, and approval of building pads and providing designs and specifications for soils, building pads, footing excavations, footings, and slabs.

138. Land/Site is a corporation organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

139. Land/Site's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include supplying fill dirt.

140. Myers is a corporation organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

141. Myers' work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include grading.

142. Knight's Concrete is a corporation organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

143. Knight's Concrete's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include supplying fill dirt.

144. Knight's Redi-Mix is a corporation organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

145. Knight's Redi-Mix's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include supplying concrete for foundation slabs and flatwork.

146. Coastal Concrete is or was a limited liability company organized in Delaware, authorized to do business in South Carolina, and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

147. Coastal Concrete's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include supplying concrete for foundation slabs and flatwork.

148. Manale is a limited liability company organized and existing in South Carolina and was authorized to and did conduct business, in whole or in part, at all times relevant hereto in Berkeley County, South Carolina.

149. Manale's work, services, or materials provided to and for the development and construction of The Abbey and the residences therein include landscaping and grading.

FOR A FIRST CROSS-CLAIM OR THIRD-PARTY CLAIM
AGAINST SPRING GROVE AND SUBCONTRACTOR AND SUPPLIER DEFENDANTS
(Indemnity)

150. Lennar realleges the allegations in the previous paragraphs as if restated verbatim herein.

151. Plaintiffs sued Lennar claiming damages allegedly caused by improper and defective design, construction, workmanship, and materials at the residences in The Abbey. Copies of Plaintiffs' pleadings are available from the Berkeley County public index and are incorporated herein by reference.

152. Lennar denied all of Plaintiffs' substantive allegations against it.

153. Plaintiffs allege their residences sustained actual damage by exposure to the defective or deficient work, services, labor, or materials supplied, constructed, or installed by Spring Grove and the subcontractor and supplier defendants: Super Concrete, Southern Green, TJB, Paragon, Land/Site, Myers, Knight's Concrete, Knight's Redi-Mix, Coastal Concrete, and Manale (collectively "Subcontractor and Supplier Defendants"). Plaintiffs further allege that their residences have sustained property damage caused by continuous exposure to Spring

Grove's and Subcontractor and Supplier Defendants' defective and improper materials, installation, and construction that resulted in property damage and not merely negligent construction damaging only the work product itself. In addition, the alleged negligence, breaches, errors, omissions and wrongful acts of Spring Grove and Subcontractor and Supplier Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous, and/or injurious events that caused property damage.

154. A special relationship existed between Lennar and Spring Grove and between Lennar and Subcontractor and Supplier Defendants.

155. To the extent, if any, that Lennar is liable to Plaintiffs in this action, such liability would be because the wrongful acts, omissions, negligence, breaches, or representations of Spring Grove or Subcontractor and Supplier Defendants were imputed to Lennar.

156. A right of indemnity exists in favor of Lennar as the relation between Lennar and Spring Grove and the relation between Lennar and Subcontractor and Supplier Defendants is such that in law or equity there is an obligation for Spring Grove and Subcontractor and Supplier Defendants to indemnify Lennar, as Lennar is required to defend itself in this action and exposed to liability due to the alleged wrongful acts, omissions, negligence, breaches, or representations of Spring Grove or Subcontractor and Supplier Defendants.

157. To the extent, if any, that Lennar is held liable to Plaintiffs in this action, such liability would be a direct and proximate result of the wrongful acts, omissions, negligence, and/or representations of Spring Grove and the Subcontractor and Supplier Defendants which damaged Lennar as Lennar has been subjected to liability and incurred consequential damages in attorney's fees and costs in defending this action.

158. To the extent, if any, that the materials, labor, services, or work provided by Spring Grove or the Subcontractor and Supplier Defendants were defective or deficient, such defects and deficiencies would be the result of the breaches of the express and implied contractual obligations and warranties that Spring Grove and the Subcontractor and Supplier Defendants provided to Lennar, damaging Lennar as Lennar has been subjected to liability and incurred consequential damages in attorney's fees and costs in defending this action.

159. In the event Lennar is liable to pay Plaintiffs for defective or deficient materials, labor, work, or services, the principles of equity and the applicable contracts require that Spring Grove and the Subcontractor and Supplier Defendants indemnify and hold harmless Lennar for any liability Lennar is found to have to Plaintiffs in this action which is proximately caused by or results from the sole or apportioned negligence and/or breaches of Spring Grove and/or the Subcontractor and Supplier Defendants, and Lennar would be entitled to damages for Spring Grove and/or the Subcontractor and Supplier Defendants negligence/gross negligence as aforescribed and for Spring Grove and/or the Subcontractor and Supplier Defendants' breach of any implied and express warranties, entitling Lennar to recover from Spring Grove and/or the Subcontractor and Supplier Defendants its attorney's fees, costs, and other expenses incurred in defending this action, and entitling Lennar to recover from Spring Grove and/or the Subcontractor and Supplier Defendants any sums for which it may be held liable to Plaintiffs which are proximately caused by or result from the sole or apportioned negligence and/or breaches of Spring Grove and/or the Subcontractor and Supplier Defendants. Lennar expressly stipulates that it does not seek recovery of any damages from Spring Grove or the Subcontractor and Supplier Defendants caused by Lennar's sole or apportioned negligence or for defective

materials not manufactured or supplied by Spring Grove or the respective Subcontractor and Supplier Defendants.

FOR A SECOND CROSS-CLAIM OR THIRD-PARTY CLAIM
AGAINST SPRING GROVE
(Breach of Contract)

160. Lennar realleges the allegations in the previous paragraphs as if restated verbatim herein.

161. On or about October 22, 2010, Lennar and Spring Grove entered into a contract for the sale of the subdivision lots in The Abbey (“Agreement for the Purchase and Sale of Subdivision Lots”).

162. The Agreement for the Purchase and Sale of Subdivision Lots is an enforceable contract between Lennar and Spring Grove supported by mutual consideration.

163. Pursuant to section 6.5 of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to develop the lots in accordance with requirements specified in Exhibit D to the agreement and in compliance with all applicable building codes and regulations.

164. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to:

- (a) grade the lots and construct the building pads;
- (b) install curbs and gutters;
- (c) install streets and roads;
- (d) install storm drainage, retention and detention facilities, and other storm drainage structures and systems.

165. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to grade and engineer The Abbey and the lots therein in accordance with all laws, ordinances, and governmental requirements and any engineering and grading plans.

166. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to provide lots suitable for Lennar to construct single-family residences.

167. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to provide lots with building pads with fill compacted to 95% of standard proctor.

168. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to provide lots with building pads with a soil bearing pressure of 2500 PSF or greater.

169. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to provide a report prepared by a geotechnical engineer indicating the soil comprising the building pad for each lot in The Abbey has sufficient bearing capacity to safely accommodate the type of residential home Lennar intended to build thereon without the need for any additional compaction, displacement, removal or substitution of soil.

170. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to provide an in-ground storm drainage system to manage storm water.

171. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to engineer and grade the lots such that 2% drainage is established.

172. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to provide surface drainage such that there would be no standing water on the lots after twenty-four hours elapse after a rain event.

173. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to provide grading and drainage such that storm water would not flow across more than three lots before being conveyed off the lot or managed through an underground storm drainage system.

174. Pursuant to Exhibit D of the Agreement for the Purchase and Sale of Subdivision Lots, Spring Grove was contractually obligated to provide streets and roads in The Abbey to include the necessary grading and storm sewer structures and system.

175. Plaintiffs allege their lots and The Abbey were improperly, deficiently, or defectively graded.

176. Plaintiffs allege their residences and The Abbey suffers from deficient or defective drainage.

177. Plaintiffs allege that their residences sustained actual damage by exposure to the defective or deficient drainage systems and grading in The Abbey and related work, services, labor, or materials designed, engineered, supplied, constructed, or installed by Spring Grove. Plaintiffs further allege that their residences have sustained property damage caused by continuous exposure to Spring Grove's defective and improper materials, installation, design, engineering, and construction that resulted in property damage and not merely negligent

construction damaging only the work product itself. In addition, the alleged negligence, breaches, errors, omissions and wrongful acts of Spring Grove were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous, and/or injurious events that caused property damage.

178. In the event Plaintiffs prevail on any of their claims, Spring Grove materially breached the Agreement for the Purchase and Sale of Subdivision Lots in:

- (a) improperly, deficiently, or defectively constructing the building pads;
- (b) improperly, deficiently, or defectively compacting the soil comprising the building pads;
- (c) failing to provide building pads with sufficient bearing capacity;
- (d) failing to provide a report from a geotechnical engineer accurately reflecting the native soils in The Abbey and their characteristics and the implications for construction of residences in The Abbey;
- (e) failing to compact, displace, remove, substitute fill for, or otherwise treat or remedy any native soil conditions;
- (f) improperly, deficiently, or defectively grading the lots;
- (g) improperly, deficiently, or defectively installing curbs and gutters;
- (h) improperly, deficiently, or defectively installing streets and roads;
- (i) improperly, deficiently, or defectively installing storm drainage, retention and detention facilities and other storm drainage systems;
- (j) failing to grade and engineer the lots in accordance with all laws, ordinances, and governmental requirements and any engineering and grading plans;
- (k) providing a deficient and defective in-ground storm drainage system;

(l) improperly, deficiently, or defectively grading the lots such that a 2% drainage was not established;

(m) improperly, deficiently, or defectively grading the lots such that water remains standing on the lots more than twenty-four hours after a rain event;

(n) improperly, deficiently, or defectively grading and providing drainage such that water flows across more than three lots;

(o) improperly, deficiently, or defectively grading and providing storm sewer for the streets and roads in The Abbey.

179. Spring Grove failed to cure any such breaches.

180. As a result of the material breaches of Spring Grove, Lennar has suffered direct, incidental, and consequential damages, including, but not limited to, reputational injury, costs and expenses incurred as a result of warranty claims from homeowners, the amount of any monies Lennar is adjudged to owe Plaintiffs or which it pays Plaintiffs in settlement of Plaintiffs' claims, and the cost of investigating and defending this claim.

181. Lennar is entitled to judgment against Spring Grove for Lennar's direct, incidental, and consequential damages resulting from the breaches including, but not limited to, reputational injury, costs and expenses incurred as a result of warranty claims from homeowners, the amount of any monies Lennar is adjudged to owe Plaintiffs or which it pays Plaintiffs in settlement of Plaintiffs' claims, and the cost of investigating and defending this claim, which are proximately caused by or result from the breaches of the Agreement. Lennar expressly stipulates that it does not seek recovery of any damages from Spring Grove caused by Lennar's sole or apportioned negligence or for defective materials not manufactured or supplied by Spring Grove.

182. Further, Lennar has been required to expend sums for attorney's fees and costs, all of which were foreseeable to Spring Grove as a result of breaches of the Agreement for the Purchase and Sale of Subdivision Lots.

183. In light of the contractual provisions providing for an award of costs and reasonable attorney's fees, Lennar is entitled to recover the same from Spring Grove.

184. Spring Grove's breaches include breaches of warranties and representations made in regards to the fitness, quality, durability, performance, or use of its products and work.

185. Spring Grove's breaches of warranties and representations in the Agreement for the Purchase and Sale of Subdivision Lots are alleged by Plaintiffs to have caused property damage to their residences.

FOR A THIRD CROSS-CLAIM OR THIRD-PARTY CLAIM
AGAINST SUBCONTRACTOR AND SUPPLIER DEFENDANTS
(Breach of Contract)

186. Lennar realleges the allegations in the previous paragraphs as if restated verbatim herein.

187. Lennar contracted with or was a third-party beneficiary of contracts entered into by Subcontractor and Supplier Defendants.

188. Pursuant to those contracts, Subcontractor and Supplier Defendants were obligated, among other things, to provide labor, materials, and services for the residences in The Abbey and specifically for Plaintiffs' residences.

189. Pursuant to those contracts, Subcontractor and Supplier Defendants agreed to provide work, materials, or services meeting contractually specified standards.

190. To the extent, if any, that the materials, labor, services, or work for the residences constructed in The Abbey were defective or deficient, Subcontractor and Supplier Defendants

breached their contracts with Lennar or their contracts for which Lennar was a third-party beneficiary by, among other things, failing to perform their work in a careful, diligent, and workmanlike manner, by failing to provide materials, work, or services that resulted in a quality residence free from defects and otherwise in conformance with all contract documents, and failing to provide materials, work, or services conforming with all appropriate building codes and industry standards.

191. As a result of the breaches of the applicable contracts by Subcontractor and Supplier Defendants, Lennar has suffered direct, incidental, and consequential damages, including, but not limited to, reputational injury, costs and expenses incurred as a result of warranty claims from homeowners, the amount of any monies Lennar is adjudged to owe Plaintiffs or which it pays Plaintiffs in settlement of Plaintiffs' claims, and the cost of investigating and defending this claim.

192. Further, Lennar has been required to expend sums for attorney's fees and costs, all of which were foreseeable to Subcontractor and Supplier Defendants as a result of breaches of the contracts.

193. Lennar is entitled to judgment against Subcontractor and Supplier Defendants for Lennar's direct, incidental, and consequential damages resulting from the breaches including, but not limited to, reputational injury, costs and expenses incurred as a result of warranty claims from homeowners, the amount of any monies Lennar is adjudged to owe Plaintiffs or which it pays Plaintiffs in settlement of Plaintiffs' claims, and the cost of investigating and defending this claim, which are proximately caused by or result from the breaches of the applicable contracts between Lennar and the respective Subcontractor and Supplier Defendants. Lennar expressly stipulates that it does not seek recovery of any damages from the Subcontractor and Supplier

Defendants caused by Lennar's sole or apportioned negligence or for defective materials not manufactured or supplied by the respective Subcontractor and Supplier Defendants.

194. Additionally, Lennar's contracts with Subcontractor and Supplier Defendants required that they name Lennar as an additional insured on their commercial general liability ("CGL") policies and thereby provide Lennar with coverage for claims arising out of a Subcontractor or Supplier Defendant's materials, labor, services, or work.

195. To the extent a Subcontractor or Supplier Defendant failed to name Lennar as an additional insured on its CGL policies or otherwise failed to follow the contractual provisions regarding naming Lennar as an additional insured and the Subcontractor or Supplier Defendant's insurance carrier refuses to defend and indemnify Lennar for Plaintiffs' claims, the Subcontractor or Supplier Defendant breached its contract with Lennar, Lennar will have suffered damages as a result of the breach, and Lennar is entitled to recover from the Subcontractor or Supplier Defendant for those damages including, but not limited to, Lennar's attorney's fees, costs, and expenses incurred in defending this action.

196. Subcontractor and Supplier Defendants' breaches include breaches of warranties and representations made in regards to the fitness, quality, durability, performance, or use of its products and work.

197. Spring Grove's breaches of warranties and representations in the Agreement for the Purchase and Sale of Subdivision Lots are alleged by Plaintiffs to have caused property damage to their residences.

FOR A FOURTH CROSS-CLAIM OR THIRD-PARTY CLAIM
AGAINST DESIGN AND ENGINEERING DEFENDANTS
(Indemnity)

198. Lennar realleges the allegations in the previous paragraphs as if restated verbatim herein.

199. Lennar entered into contracts with or was a third-beneficiary of contracts entered into with CSE, Earthworks, Volkmar, and Geometrics (collectively the “Design and Engineering Defendants”).

200. CSE was responsible for, among other things, preparing the civil engineering plans, drawings, documents, and specifications including preparing grading and drainage plans, drawings, documents, and specifications for The Abbey.

201. Earthworks was responsible for, among other things, preparing the plans, drawings, documents, and specifications for the residences constructed in The Abbey.

202. Volkmar was responsible for providing geotechnical engineering services for construction of residences in The Abbey to include, but not limited to, site exploration, investigation, testing, and analysis of soils in The Abbey, preparing designs and specifications for grading, site preparation, groundwater control, fill, compaction, soils, building pads, footing excavations, footings, and slabs, and observation, investigation, testing, administration, and approval of soils, grading, building pads, and footing excavations for residences in The Abbey.

203. Geometrics was responsible for providing geotechnical engineering services for construction of residences in The Abbey including, but not limited to, observation, investigation, testing, administration, and approval of soils, grading, building pads, and footing excavations for residences in the Abby.

204. Design and Engineering Defendants provided some or all of those services for the construction of the residences in The Abbey.

205. Plaintiffs sued Lennar alleging damages caused by deficient design, engineering, and construction administration services provided by Design and Engineering Defendants.

206. Lennar denied all of Plaintiffs' substantive allegations against it.

207. Plaintiffs allege their residences sustained actual damage by exposure to the defective or deficient services of Design and Engineering Defendants.

208. A special relationship existed between Lennar and Design and Engineering Defendants.

209. Design and Engineering Defendants owed Lennar a duty to perform and provide their design, engineering, and construction administration services in accordance with their contracts and the applicable rules, regulations, and ethical requirements that relate to architects or engineers practicing in South Carolina and with the appropriate standard of professional care and generally accepted architectural and engineering standards.

210. To the extent, if any, that Lennar is liable to Plaintiffs in this action, such liability would be because the wrongful acts, omissions, negligence, breaches, or representations of Design and Engineering Defendants were imputed to Lennar.

211. A right of indemnity exists in favor of Lennar as the relation between Lennar and Design and Engineering Defendants and the relation between Lennar is such that in law or equity there is an obligation for Design and Engineering Defendants to indemnify Lennar, as Lennar is required to defend itself in this action and exposed to liability due to the alleged wrongful acts, omissions, negligence, breaches, or representations of Design and Engineering.

212. To the extent, if any, that Lennar is held liable to Plaintiffs in this action, such liability would be a direct and proximate result of the wrongful acts, omissions, negligence, or representations of Design and Engineering Defendants which damaged Lennar as Lennar has been subjected to liability and incurred consequential damages in attorney's fees and costs in defending this action.

213. To the extent, if any, that the services, engineering, designs, plans, drawings, or specifications provided by Design and Engineering Defendants were improper, defective, deficient, or otherwise not suitable, such defects and deficiencies would be the result of the breaches of the express and implied contractual obligations and warranties that Design and Engineering Defendants provided to Lennar, damaging Lennar as Lennar has been subjected to liability and incurred consequential damages in attorney's fees and costs in defending this action.

214. In the event Lennar is liable to pay Plaintiffs' for any defect, deficiency, or other condition in their residences or any defect, deficiency, or other condition in or on their properties or The Abbey generally, the principles of equity and the applicable contracts require that Design and Engineering Defendants indemnify and hold harmless Lennar for any liability Lennar is found to have to Plaintiffs in this action which is proximately caused by or results from the sole or apportioned negligence and/or breaches of the Design and Engineering Defendants, and Lennar would be entitled to damages for the Design and Engineering Defendants negligence/gross negligence as aforescribed and for the Design and Engineering Defendants' breach of their implied and express warranties, entitling Lennar to recover from the Design and Engineering Defendants its attorney's fees, costs, and other expenses incurred in defending this action, and entitling Lennar to recover from the Design and Engineering Defendants any sums for which it may be held liable to Plaintiffs which are proximately caused by or result from the

sole or apportioned negligence and/or breaches of the Design and Engineering Defendants. Lennar expressly stipulates that it does not seek recovery of any damages from the Design and Engineering Defendants caused by Lennar's sole or apportioned negligence or for defective materials not manufactured or supplied by the respective Design and Engineering Defendants.

FOR A FIFTH CROSS-CLAIM OR THIRD-PARTY CLAIM
AGAINST DESIGN AND ENGINEERING DEFENDANTS
(Breach of Contract)

215. Lennar realleges the allegations in the previous paragraphs as if restated verbatim herein.

216. Lennar contracted with or was a third-party beneficiary of contracts entered into by Design and Engineering Defendants.

217. Pursuant to those contracts, Design and Engineering Defendants were obligated, among other things, to provide work and services for The Abbey generally, the residences constructed in The Abbey, and specifically for Plaintiffs' residences.

218. Pursuant to those contracts, Design and Engineering Defendants agreed to provide work and services meeting contractually specified standards.

219. The terms of the contracts required Design and Engineering Defendants to provide design, engineering, and construction administration services that, among other things, would produce a quality residential development and residences free from defects and otherwise in conformance with all contract documents, building codes, statutes, codes, regulations, industry standards, and any other applicable standard. The contracts further required Design and Engineering Defendants to supervise and direct their work and services using their best skill and attention.

220. To the extent, if any, that any defect or deficiency exists in the residences in The Abbey or in or on the lots in The Abbey or The Abbey generally, Design and Engineering Defendants breached their contracts with Lennar or their contracts for which Lennar was a third-party beneficiary by, among other things, failing to perform their work in a careful, diligent, and workmanlike manner, by failing to work and services that resulted in a quality residential development and residences free from defects and otherwise in conformance with all contract documents, building codes, statutes, codes, regulations, industry standards, and any other applicable standard.

221. As a result of the breaches of the applicable contracts by Design and Engineering Defendants, Lennar has suffered damages, including, but not limited to, reputational injury, costs and expenses incurred as a result of warranty claims from homeowners, the amount of any monies Lennar is adjudged to owe Plaintiffs or which it pays Plaintiffs in settlement of Plaintiffs' claims, and the cost of investigating and defending this claim.

222. Further, Lennar has been required to expend sums for attorney's fees and costs, all of which were foreseeable to Design and Engineering Defendants as a result of breaches of the contracts.

223. Lennar is entitled to judgment against Design and Engineering Defendants for Lennar's damages resulting from the breaches including, but not limited to, reputational injury, costs and expenses incurred as a result of warranty claims from homeowners, the amount of any monies Lennar is adjudged to owe Plaintiffs or which it pays Plaintiffs in settlement of Plaintiffs' claims, and the cost of investigating and defending this claim, which are proximately caused by or result from the breaches of applicable contracts between Lennar and the respective Design and Engineering Defendants. Lennar expressly stipulates that it does not seek recovery of any

damages from Design and Engineering Defendants caused by Lennar's sole or apportioned negligence or for defective materials not manufactured or supplied by the respective Design and Engineering Defendants.

WHEREFORE, Lennar prays that Plaintiffs' claims be dismissed with costs and, subject to the stipulations and limitations alleged herein, that Lennar be given judgment against Spring Grove, the Subcontractor and Supplier Defendants, and the Design and Engineering Defendants in the amount of liability Lennar is found to have to Plaintiffs in this action, and that Lennar be given judgment requiring Spring Grove, the Subcontractor and Supplier Defendants, and the Design and Engineering Defendants to defend and indemnify Lennar against any liability Lennar may suffer to Plaintiffs in this action, or which it pays or has paid Plaintiffs in settlement of Plaintiffs' claims, to include Lennar's attorney's fees, costs and other expenses incurred in defending this action. Lennar further demands, subject to the stipulations and limitations alleged herein, judgment for actual and, if warranted, punitive damages against Spring Grove, the Subcontractor and Supplier Defendants and the Design and Engineering Defendants and to reimburse it fully for costs, expenses, and attorneys' fees associated with the deficiencies described herein, in an amount to be determined by the trier of fact, and for such other and further relief as this Court may deem just and proper.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

s/ Taylor H. Stair

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