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REBA G. THOMAS  
REGISTER OF DEEDS  
CHATHAM COUNTY, NC

BOOK 991 PAGE 311

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AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
COLVARD FARMS SUBDIVISION

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF COLVARD FARMS SUBDIVISION, amending and restating in its entirety that certain Declaration of Covenants, Conditions and Restrictions of Colvard Farms Subdivision recorded in Book 920, Page 978, Chatham County, North Carolina Registry (hereinafter the "Declaration"), made this 27 day of January, 2003 by COLVARD FARMS DEVELOPMENT COMPANY, LLC, a North Carolina limited liability company (hereinafter called the "Developer"); ALEX MITCHELL CONSTRUCTION, INC., a North Carolina corporation (hereinafter called the "Builder"); BRANCH BANKING AND TRUST COMPANY, (hereinafter called "BB&T"); CAROLINA BUILDERS CORPORATION (hereinafter called "Carolina Builders"); CAPITAL BANK (hereinafter called "Capital"); FIDELITY BANK (hereinafter called "Fidelity"); EARL W. TYE, in his capacity as Substitute Trustee for BB&T (hereinafter called "BB&T Trustee"); CHARLES H. SEDBERRY, in his capacity as Trustee for Carolina Builders (hereinafter called "Carolina Builders Trustee"); FRANKLIN G. SHELL, in his capacity as Trustee for Capital (hereinafter called "Capital Trustee"); HAYWOOD A. LANE, JR., in his capacity as Trustee for Fidelity (hereinafter called "Fidelity Trustee"); JUDITH M. HOBBS and JOAN P. MORRIS, as tenants-in-common (hereinafter called "Hobbs/Morris"); MICHAEL W. SMITH and wife, ELEANOR M. SMITH (hereinafter called "Smith"); and JOHN LOSSING and wife, IMELDA LOSSING (hereinafter called "Lossing").

WITNESSETH:

WHEREAS, the parties hereto are the owner of the real property described on Exhibit "A" of this Declaration (the "Property") and desire to create thereon a planned residential community with residential and recreational users to be known as "Colvard Farms"; and,

WHEREAS, the Developer desires to provide for a uniform scheme of development for the Property and the improvements to be placed thereon, to enhance the value, desirability and attractiveness of the Property, to provide for the maintenance of any common facilities and services and a mechanism for the administration and enforcement of covenants and restrictions, and to provide for the assessment of charges in connection with the maintenance of any common facilities and services; and,

WHEREAS, the Builder has expressly agreed with the Developer to join in the execution of this document for the purpose of subjecting the Builder's real property, as described on Exhibit B (the "Builder Property"), to these covenants, conditions and restrictions; and,

WHEREAS, the parties other than the Developer and the Builder have agreed to join in the execution of this document for the purpose of subjecting their respective interests in the Property to these covenants, conditions and restrictions; and

See p. 2 for P+R

FOR REGISTRATION REGISTER OF DEEDS  
WILLIE L. GOVINGTON  
DURHAM COUNTY, NC  
2003 FEB 27 09:25:24 AM  
BK: 3787 PG: 370-424 FEE: \$173.00  
INSTRUMENT # 2003012865

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WHEREAS, the Developer has caused or will cause to be incorporated under the laws of the State of North Carolina, a non-profit corporation, Colvard Farms Homeowners Association, Inc., hereinafter called the "Association," for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth; and,

WHEREAS, BB&T Trustee is the holder of a security interest in the Property by virtue of a Deed of Trust recorded in Book 893, Page 778, Chatham County Registry and in Book 3222, Page 486, Durham County Registry (the "BB&T Deeds of Trust"), together with any other documents and instruments evidencing, securing, or in any manner relating to the indebtedness evidenced or secured by the BB&T Deed of Trust (all such documents are hereinafter referred to as the "BB&T Security Documents"); and

WHEREAS, Carolina Builders Trustee is the holder of a security interest in Lots 47 and 51 of the Builder Property on behalf of Carolina Builders by virtue of two (2) Deeds of Trust recorded in Book 909, Pages 623 and 647, Chatham County Registry (the "Carolina Builders Deeds of Trust"); and

WHEREAS, Capital Trustee holds a security interest in Lots 50 and 60 of the Builder Property on behalf of Capital by virtue of two (2) Deeds of Trust recorded in Book 909, Pages 629 and 638, Chatham County Registry (the "Capital Deeds of Trust"); and

WHEREAS, Fidelity Trustee holds a security interest in Lot 49 of the Property on behalf of Fidelity by virtue of a Deed of Trust recorded in Book 936, Page 573, Chatham County Registry (the "Fidelity Deed of Trust"); and

WHEREAS, the Developer and the Builder have requested BB&T, Carolina Builders, Capital and Fidelity and their respective trustees (hereinafter collectively the "Lenders") to join in the execution of this Declaration for the purpose of acknowledging and consenting to the terms and conditions herein and further subjecting the Property and the Builder Property, in which the Lenders hold the security interests as described above, to the provisions contained herein. By the execution of this Declaration, the Lenders consent to the terms and conditions hereof, and subordinate the lien of the BB&T Security Documents, the Carolina Builders Deeds of Trust, the Capital Deeds of Trust, and the Fidelity Deed of Trust to the provisions, terms and conditions of this Declaration; and

WHEREAS, each of Hobbs/Morris, Smith and Lossing own one or more Lots within the Property and wish to join in this Declaration for the purpose of subjecting such Lots to the provisions, terms and conditions of this Declaration.

NOW, THEREFORE, the Developer and the Builder declare, and the Lenders consent, that the Property and the Builder Property and such additions thereto as may hereinafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens (all hereinafter sometimes referred to as the "Covenants" or the "Covenants and Restrictions") hereinafter set forth.

Prepared by Colvard Farms Development Company, LLC  
9310 NC Hwy 751  
Durham, NC 27713

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**ARTICLE 1**

**DEFINITIONS**

The following words and terms, when used in this Declaration or any Supplemental Declaration, as hereinafter defined, or amendment hereto (unless the context shall clearly indicate otherwise) shall have the following meanings:

- (a) "Articles" shall mean and refer to the Articles of Incorporation of the Association.
- (b) "Association" shall mean and refer to Colvard Farms Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.
- (c) "Board" shall mean and refer to the Board of Directors of the Association.
- (d) "Bylaws" shall mean and refer to the Bylaws of the Association as they may now or hereafter exist.
- (e) "Common Expense" shall mean and refer to (i) expenses of administration, maintenance, improvement, repair or replacement of the Permanent Open Space; (ii) expenses declared to be or described as Common Expenses by the provisions of this Declaration; (iii) premiums for hazard, liability or other insurance as may be obtained by the Association; and, (iv) all other expenses incurred by the Association in carrying out its functions and duties under this Declaration.
- (f) "Common Property" shall mean and refer singularly or collectively, as applicable, to all real property including medians and other areas within private street rights-of-way, the entrance and landscaped areas and tree berm areas not included within residential subdivision numbered lots.
- (g) "Developer" shall mean Colvard Farms Development Company, LLC, a North Carolina limited liability company, its successors and assigns.
- (h) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Colvard Farms Subdivision as it may be amended and supplemented (by Supplemental Declarations) from time to time as herein provided.
- (i) "Improvement" or "Improvements" shall mean and include all buildings, storage sheds or areas, roofed structures, decks, patios, parking areas, exterior recreational areas, recreational equipment and facilities, mailboxes, exterior antennae, dishes or other apparatus to receive or transmit television or radio or microwave or other signals, loading areas, fences, walls, hedges, mass planting, poles, driveways, changes in grade or slope of a Lot, site preparation of a Lot, landscaping, exterior clothesline, swimming pools, signs, exterior illumination, changes in an exterior improvement which may be both original Improvements and all later changes and additions to Improvements.
- (j) "Intended Use" shall mean the use intended for various parcels within the Property as shown on the Master Plan of Colvard Farms prepared by the Developer as the same may be revised from time to time by the Developer, or the use to which any particular parcel of land is restricted by Covenants expressly set

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forth or incorporated by reference in deeds by which the Developer has conveyed property.

- (k) "Lot" shall mean and refer to any numbered or lettered plot of land that is part of the Property, is intended for single-family residential use and is shown on that plat in the office of the Register of Deeds, Chatham and/or Durham Counties, North Carolina, which the Developer has recorded, caused to be recorded or approved for recordation, or will record in the future.
- (l) "Maintain", "Maintenance" or any substantially similar term used in this Declaration, when applied to a power or duty of the Association shall mean and include, without limitations, the right to repair, replace, improve, operate and use the improvement, property or other item which is the subject thereof.
- (m) "Master Plan" shall mean and refer to the drawing, which represents the conceptual plan for the future development of Colvard Farms. Since the concept of the future development of Colvard Farms is subject to continuing revision and change by the Developer, present and future references to the "Master Plan" shall be references to the latest revision thereof.
- (n) "Member" shall mean and refer to each Owner of a Lot who is a member of the Association as provided in this Declaration.
- (o) "Owner" shall mean and refer to the owner of record as shown in the Chatham and/or Durham Counties, North Carolina Registry, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- (p) "Permanent Open Space" shall mean and refer singularly or collectively, as applicable, to all real property and any improvements thereon or associated therewith as follows: any property within Colvard Farms that is not contained in Lots, or is not contained in public rights-of-way or parcels devoted to accommodating necessary road and utilities; any real property on a recorded plat, in a Supplemental Declaration or in a deed or other written instrument designated as Permanent Open Space; all personal property owned by the Association and designated as Permanent Open Space by the Developer or the Association and which Permanent Open Space is for the common use, enjoyment or benefit of the Owners. All Permanent Open Space shall be subject to the terms and conditions of this Declaration. Permanent Open Space may also include, as determined by the Developer in its sole discretion, all facilities, structures and improvements associated herewith, required to be constructed, repaired, replaced or maintained on or near the Property or any portion thereof by the laws, rules or regulations of any governmental authority having jurisdiction thereof. The Colvard Farms swimming pool, clubhouse and other common recreation areas which will be made available for the common use and enjoyment to the Owners shall be considered as Permanent Open Space.
- (q) "Person" shall mean and refer to any individual, corporation, partnership, limited liability company, association, trust or any other legal entity.
- (r) "Property" shall mean and refer to that certain property hereinbefore described, and such additions thereto as may hereinafter be brought within the jurisdiction of the Association.

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- (s) "Resident" shall mean and refer to all those Owners who are Members of the Association.
- (t) "Subdivision" shall include Colvard Farms as shown on the plat thereof recorded by or with the consent of the Developer in the Chatham and/or Durham Counties, North Carolina Registry.

ARTICLE II

PROPERTY

Section 1. Property Made Subject to Declaration. The Property and the Builder Property are hereby made subject to this Declaration and the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by the Developer, the Association and each Owner subject to this Declaration and the terms, covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration. By the execution of this Declaration, the Lenders consent to the terms and conditions hereof, and subordinate the lien of the BB&T Security Documents, the Carolina Builders Deeds of Trust, the Capital Deeds of Trust, and the Fidelity Deed of Trust to the provisions, terms and conditions of this Declaration. By the execution of this Declaration, each of Hunter, Hobbs/Morris, Smith and Lossing subject the Lots owned by each of them to the provisions, terms and conditions of this Declaration.

Section 2. Annexation of Additional Property by the Developer. If within fifteen (15) years of the date of incorporation of the Association, the Developer is the Owner of any real property being referred to herein as "Additional Property," and Developer desires to subject such Additional Property to this Declaration, the Developer may do so by filing of record a "Supplemental Declaration" (herein so called) which shall extend this Declaration to such Additional Property; provided, however, that such Supplemental Declaration, as applied to the Additional Property covered thereby, may include such specific additional terms, covenants, conditions, restrictions, easements, charges and liens, not inconsistent with this Declaration, as may be set forth in such Supplemental Declaration.

Section 3. Annexation of Additional Property by Other Person. If within fifteen (15) years of the date of incorporation of the Association a person other than the Developer desires to subject real property (also referred to as "Additional Property") to this Declaration, such real property may only be subjected hereto if the owner thereof consents in writing, if the Developer consents in writing and if subjecting the Additional Property to this Declaration is approved by the affirmative vote of two-thirds (2/3) of the votes of each class of membership entitled to be cast by the Members present or represented by proxy at a duly called meeting of the Association at which a quorum is present. Upon such affirmative vote, such Additional Property shall be subjected to this Declaration by means of a Supplemental Declaration signed by the owner of such Additional Property and the appropriate officers of the Association and duly recorded.

Section 4. Contents of Supplemental Declaration. Each Supplemental Declaration shall be effective upon recordation in the Chatham and/or Durham Counties, North Carolina

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Registry, shall describe the lands annexed and shall incorporate the provisions of this Declaration, either by reference hereto or by fully setting out the provisions hereof. Such Supplemental Declaration need not be in any specific form (for example, it may be contained in a deed from the Developer conveying the real property being subjected to this Declaration), but shall clearly indicate the intention to subject the Additional Property to this Declaration. A Supplemental Declaration may contain such other terms and conditions, not inconsistent herewith, as the parties subjecting the Additional Property to this Declaration may agree upon. Nothing contained herein shall prohibit the owner of any Additional Property made subject to this Declaration by Supplemental Declaration from subjecting such Additional Property to other covenants, conditions and restrictions not inconsistent with the terms of this Declaration.

Section 5. Merger or Consolidation. Upon a merger or consolidation of the Association with another association which is a non-profit corporation composed of owners of residential real property (which merger or consolidation may occur under the provisions of applicable laws or the provisions of this Declaration not inconsistent with such applicable laws), the properties, rights and obligations of the Association may, by operation of the law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated association shall be considered the Association and shall administer the terms and provisions of this Declaration and any applicable Supplemental Declaration affecting the portions of the property in the jurisdiction of such Association, together with the covenants and restrictions established upon any other properties, as on scheme. The plan of merger or consolidation between the Association and any such other association may contain terms and provisions with respect to Common Property owned by the Association or such other association as may be approved by the Association and such other association by the votes authorizing the merger and, to the extent that such provisions may conflict with the provisions of this Declaration, the provisions contained in the approved plan of merger or consolidation shall control. No such merger or consolidation, however, shall effect any revocation, change or addition to the terms and provisions of this Declaration or any Supplemental Declaration pertaining to the Property or any portion thereof except as specifically provided in this Declaration.

Section 6. Additional Lands. Additional lands, if any, which may become subject to this Declaration under the provisions of this Section II, may in the future be referred to as a part of Colvard Farms. Also, the name Colvard Farms may be used by the Developer to refer to other nearby properties, if any, not subject to this Declaration.

**ARTICLE III**

**MEMBERSHIP AND VOTING RIGHTS**

Section 1. Membership. Each and every Owner of a Lot shall automatically become and be a Member of the Association.

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**Section 2. Classes of Voting Members.** Subject to the rights of the Developer reserved in section 4 of the Article, the Association shall have two classes of voting membership as follows:

**Class A.** Class A Members shall be all Owners of Lots, with the exception of the Developer until such time as the Developer's Class B Membership is converted to Class A Membership as provided in this Article. A Class A Member shall be entitled to one (1) vote for each Lot owned by such Class A Member at the time notice is given of the particular meeting at which Class A Membership votes are eligible to be cast. Provided, when two (2) or more Persons own or hold interests in any Lot, all such Persons shall be Class A Members, and the one (1) vote for such Lot shall be exercised as they, among themselves, determine (including the division thereof into fractional votes), but in connection with any particular vote no more than one Class A membership (1) vote shall be cast with respect to each Lot.

**Class B.** Class B Member shall be the Developer. The Class B Member shall be entitled to three (3) votes for each Lot owned by the Class B Member at the time notice is given of the particular meeting at which the Class B votes are eligible to be cast.

The Class B Membership shall terminate and be converted to Class A Membership upon the happening of the first to occur of the following:

- (a) When the total votes outstanding in Class A Membership equal the total votes outstanding in Class B Membership. Provided, however, and notwithstanding anything to the contrary that may appear herein or in this Declaration, if at any time prior to January 1, 2020 the Class B Membership terminates for the foregoing reason and thereafter the Developer, pursuant to Section 2 of Article II of this Declaration, annexes Additional Property to this Declaration such that, following such annexation, if votes are allocated to the Lots owned by the Developer at the rate of three (3) votes per Lot the Developer's total outstanding votes would exceed the total outstanding votes of the Class A Member, the Class B Membership shall be reinstated until such time as it again terminates due to one of the events of termination of the Class B Membership may terminate and be reinstated in accordance with the provisions of this paragraph (a); or
- (b) Voluntary termination by the Developer; or
- (c) January 1, 2020.

Membership shall be appurtenant to and may not be separated from ownership of any Lot, and the Board may make reasonable rules relating to the proof of ownership.

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**Section 3. Voting, Quorum and Notice Requirements.** Except as may be otherwise specifically set forth in this Declaration, the Articles or the Bylaws, the vote of the majority of the aggregate votes entitled to be cast by all classes of all the Members present, or represented by legitimate proxy, at a legally constituted (duly called) meeting of the Association at which a quorum is present, shall be the act of the Members with respect to the matter that is the subject of such vote. The number of votes required to constitute a quorum shall be as set forth herein or in the Bylaws. Notice requirements for all action to be taken by the Members of the Association shall be as set forth herein or in the Bylaws.

**Section 4. Termination of Membership.** A Person's membership in the Association shall terminate automatically whenever such Person ceases to be an Owner, but such termination shall not release or relieve any such person from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of such Person's ownership of a Lot, or impair any rights or remedies which the Association or any other Member has with regard to such former Member.

#### ARTICLE IV

#### PROPERTY RIGHTS IN THE PERMANENT OPEN SPACE

**Section 1. Owner's Easements of Enjoyment.** Subject to the provisions of this Declaration (and subject to the provisions of any Supplemental Declaration or additional declaration which may be applicable and not inconsistent herewith), every Owner shall have a right and easement of use and enjoyment in and to the Permanent Open Space, which right and easement shall be appurtenant to and shall pass with the title to every Lot; PROVIDED, HOWEVER, such easement shall not give such person the right to make alterations, additions or improvements to any part of the Permanent Open Space. Subject to the terms of this Declaration and the Bylaws, any Owner may delegate to such Owner's family, or to a contract purchaser who resides in the Owner's Lot, or to such Owner's guests, tenants, and invitees the right and easement of use and enjoyment of the Permanent Open Space.

**Section 2. Title to the Permanent Open Space.** Prior to December 31, 2003, the Developer shall convey to the Association (by deed without warranty at the Developer's option) fee simple title to all real property portion of the Permanent Open Space, if any, shown as "common area" on any plat of any part or all the Property recorded by the Developer prior to the recordation of this Declaration, which conveyance shall be free and clear of all encumbrances and liens other than the lien of current year's ad valorem taxes and assessments not in default, utility, and access easements, other easements, restrictions and encumbrances outstanding and of record in Chatham and/or Durham Counties, North Carolina, and the terms and conditions of this Declaration and any applicable Supplemental Declaration. the Developer shall convey to the Association other real Property portions of the Permanent Open Space shown on any maps of part or all of the Property recorded subsequent to the recordation of this Declaration prior to the conveyance of the first Lot shown on any such map, such conveyance to be in accordance with and subject to the terms and conditions of this paragraph.

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**Section 3. Extent of Owners' Easement.** The rights and easements of use and enjoyment created hereby shall be subject to the following:

- (a) The right of the Association to prescribe and enforce regulations governing the use, operation and maintenance of the Permanent Open Space (including limiting the number of guests of Members who may use the Permanent Open Space);
- (b) Subject to the affirmative vote of two-thirds (2/3) of the votes of each class of membership entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum is present and which is duly called and held for the following purpose, the right of the Association to borrow money for the purpose of improving, repairing, replacing and maintaining the Permanent Open Space and facilities and/or the services in connection with such borrowing to mortgage the Permanent Open Space, provided the rights of such mortgagee in the Permanent Open Space shall be subordinate to the rights of the Owners hereunder (Note: the term "mortgage" when used in this Declaration also includes a deed of trust and any other type of security interest in real or personal property);
- (c) The right of the Association to take such steps as are reasonably necessary to protect the Permanent Open Space against foreclosure.
- (d) The right of the Association to suspend the voting rights and right to use recreational facilities, if any, by an Owner for any period during which any assessments against such Owner's Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment.
- (e) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities on the Permanent Open Space, if any;
- (f) Subject to the approval of any governmental entities or agencies whose approval is required therefor, the right of the Association to exchange portions of the Common Property with the Developer for substantially equal (in acreage or value) portions of the Property for the purpose of eliminating unintentional encroachments of Improvements onto portions of the Common Property; and
- (g) Subject to the approval of any governmental entities or agencies who approval is required therefor and subject to the affirmative vote of three-fourths (3/4) of the votes of each class of membership entitled to be cast by the Members present or represented by proxy at a duly called meeting at

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which a quorum is present, the right of the Association to dedicate or transfer all or any part of the Permanent Open Space to any public agency, authority, or utility for such purposes and upon such conditions as the Board, or the Members who exercise the required affirmative vote (if the motion or resolution passed by such vote contains such conditions), may determine.

- (h) Easements for drainage, storm water control or removal, utilities, signs and other matters shown on recorded plats of the Permanent Open Space or created or reserved by the Developer prior to or simultaneously with conveyance of such Permanent Open Space by the Developer to the Association, and/or granted by the Association as permitted by this Declaration.
- (i) Subject to the affirmative vote of three-fourths (3/4) of the votes each class of membership entitled to be cast by the Members present at a duly called meeting at which a quorum is present, the right of the Association to lease or transfer title to any part or all of the Permanent Open Space to another nonprofit corporation or association organized and existing, with respect to property owned by such corporation or association in the Project, for purposes substantially similar to the Association with respect to the Common Property. Upon the approval of the Board, the Association may lease from or accept transfer of title from any such nonprofit corporation or association any part or all of the property owned by such corporation or association.

Section 4. Access Easement. Subject to the provisions of this Declaration (and subject to the provisions of any Supplemental Declaration or additional declaration which may be applicable and not inconsistent herewith), every Owner shall have the non-exclusive right and easement for purposes of ingress, egress and regress over the access road between the Property and Highway 751 as more particularly described on Exhibit "C" hereto.

## ARTICLE V

### COVENANTS FOR ASSESSMENTS

Section 1. Creation of the lien and Personal Obligation for Assessments. Subject to the terms and conditions of this Declaration, each Owner of a Lot, by acceptance of a deed or other conveyance therefor, whether or not it will be so expressed in any such deed or other conveyance, is hereby deemed to covenant and agree (and such covenants further will be deemed to constitute a portion of the purchase money and consideration for acquisition of the Lot), to pay to the Association (or to any person who may be designated by the Association to receive such money on behalf of the Association): (i) annual assessment or charges; (ii) special assessments for capital improvements or unusual or emergency matters; and (iii) special individual assessments levied against an Owner to reimburse the Association for extra costs

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for maintenance and/or repairs caused by the failure of such Owner to maintain such owner's individual Lot and Improvements thereon, all of such assessments and charges to be fixed, established and collected as hereinafter provided. The annual, special and special individual assessments, together with such interest thereon and costs of collection thereof (including, without limitation, reasonable attorney's fees) as are hereinafter provided shall be a charge on the Lot and shall be a continuing lien upon each Lot against which each such assessment is made and shall also be the personal and continuing obligation of the Owner of such Lot at the time when the assessment became due. An Owner's personal obligation for payment of such assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used for the purposes of implementing and enforcing the terms and provisions hereof and of any Supplemental Declaration and promoting the use, enjoyment and welfare of the Owners of Lots, and in particular, but without limitation, for the (i) improvement, use, operation, repair, replacement, and maintenance of the Permanent Open Space; (ii) payment of premiums for hazard insurance in connection with the Permanent Open Space and any improvements or facilities thereon; (iii) payment of public liability and other insurance of the Association; (iv) paying the costs of labor, equipment (including the expense of leasing any equipment) and material required for the Permanent Open Space and the improvement, maintenance, repair, replacement, management, protection, preservation, use and supervision thereof; (v) paying the Association's share of the annual and special assessments as more described herein; and (vi) carrying out the purposes and duties of the Association as stated in its Articles and Bylaws and as stated in this Declaration, (vii) payment of persons employed by the Association to provide professional services, including but not limited to, accountants, attorneys, engineers, land planners, and other such persons deemed appropriate by the Association for the proper management of the duties of the Association.

Section 3. Maximum Annual Assessment and Annual Assessment. Through and including January 1, 2003, the maximum annual assessment shall be \$936 per year per Lot.

- (a) The maximum annual assessment for the calendar year beginning January 1, 2003, and for successive calendar years thereafter, shall be established by the Board and may be increased by the Board without approval by the membership of the Association by an amount per year not to exceed the greater of (i) ten percent (10%) of the amount of maximum annual assessment of the immediately preceding calendar year or (ii) the percentage increase reflected in the U.S. Bureau of Labor Statistics, Washington D.C. or such other index as may be the successor to said Consumer Price Index, for the twelve month period ending the immediately preceding July 1.
- (b) The maximum annual assessment for the calendar year beginning January 1, 2003, and for each successive calendar year thereafter, may be increased without limit by the affirmative vote of two-thirds (2/3) of the votes of each class of membership entitled to be cast by the Members present or represented by proxy at a duly called meeting of the Association at which a quorum is present. The

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provisions of this subsection shall not apply to nor be a limitation upon any change in the maximum annual assessment undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under this Declaration or its Articles or Bylaws or any applicable laws.

- (c) Subject to the provisions of this Article V, the Board may fix the annual Assessment at any amount not in excess of the maximum annual assessment allowed for the applicable calendar year.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized herein, the Association may levy in any calendar year a special assessment for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Permanent Open Space, improvements located on the Permanent Open Space, including the repair and/or replacement of paving, striping and curb and gutter located within the private streets, the community water system and water reclamation and spray irrigation facility, and all structures and facilities related thereto, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of membership entitled to be cast by the Members present or represented by proxy at a duly called meeting of the Association at which a quorum is present. A special assessment shall be due and payable as established by the vote of the Members approving the special assessment, or, if not established by such vote of the Members, as established by the Board.

Section 5. Notice and Quorum for Actions Authorized Under Sections 3 and 4. Written notice of any meeting of the Association called for the purpose of taking any action required to be taken by the membership under the preceding Sections 3 and 4 of this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members plus proxies entitled to cast sixty percent (60%) of the combined total number of votes of all classes of membership shall constitute a quorum. If the required quorum is not present at the first such meeting, subsequent meeting(s) may be called subject to the same notice requirement, and the required quorum at the subsequent meeting(s) shall be one-half (1/2) of the required quorum at the immediately preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the immediately preceding meeting.

Section 6. Rate of Assessments.

- (a) Both annual and special assessments must be fixed at a uniform rate for all Lots. Annual and special assessments may be collected on a monthly, quarterly, annual or other basis, as determined by the Board. The Board shall have the power at any time and from time to time, in its sole discretion and upon such terms and conditions as the Board deems appropriate, to allow percentage discounts to Owners who pay annual and/or special assessments earlier than would otherwise be required for such payments; provided, however, all such discounts shall be made available to and applied uniformly to the Owners of all Lots that are subject to the assessment to which the discount applies.

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- (b) The annual assessment for a Lot on which there is not a residential dwelling for which a certificate of occupancy has been issued by the governmental authority having jurisdiction thereof at the time the Lot is conveyed to the Owner by the Developer shall, for the first six (6) months that the Lot is subject to the annual assessments, be in an amount equal to fifty percent (50%) of the annual assessment established by the Board, and thereafter shall be applied at the full rate.
- (c) Notwithstanding anything to the contrary that may appear in this Declaration, the Developer and all Lots owned by the Developer shall be exempt from all annual and special assessments which are otherwise applicable to such Lots during the time they are owned by the Developer.

Section 7. Commencement of Assessments; Establishing the Amount; Due Dates. The annual assessment shall commence with respect to a Lot on the first day of the month immediately following the month in which the Lot is conveyed to the Owner by the Developer, and the amount of the first annual assessment applicable to the Lot shall be prorated in accordance with the number of months remaining in the calendar year on and after it becomes applicable to the Lot. A special assessment shall be applicable to each Lot subject to this Declaration at the time such assessment is established. The Board shall establish the amount of the annual assessment for the ensuing calendar year at least thirty (30) days in advance of the beginning of such year and, if the amount of the annual assessment changes from the amount for the current year, the Board shall cause written notice of the new annual assessment to be sent to at least one of the Owners of each Lot subject to the assessment. Subject to any limitations contained in this Declaration, the Articles, the Bylaws or any applicable laws, the Board is empowered at any time and from time to time to establish the due dates and penalties for late payment of annual and special assessments. The failure of the Board to establish the amount of any annual assessments as required herein shall not be a waiver or modification in any respect of the provisions of this Declaration, or a waiver or the Board's right to establish the annual assessment at any time during the calendar year to which it is applicable, or a release of any Owner from the obligation to pay the assessment or any installment thereof for that or any subsequent year, and the annual assessment established from the immediately preceding calendar year shall continue in effect until the Board has established the new annual assessment.

Section 8. Certification of Assessments Paid. The Association (or any Person employed by the Association to assist in the management of the Association and collection of assessments and authorized to issue such certificates) shall, upon demand and for a reasonable charge or fee, furnish a certificate signed by an officer of the Association (or the Person or an officer, partner or agent of such Person having authority to issue such certificate) setting forth whether or not the assessments (annual and special) on a particular Lot have been paid. A properly executed certificate of the Association (or authorized Person) as to the status of the payment of such assessments shall be binding on the Association, as of the date of its issuance, with respect to the assessments addressed therein.

Section 9. Owner's Personal Obligation for Payment of Assessments. The annual and special assessments provided for herein shall be the personal and individual debt of the Owner (as of the due date of the applicable assessment payment) of the Lot to which such assessments

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relate. Except for the Developer as described in Section 6 (c) above, no Owner shall be exempt from liability for such assessments by non-use of such Owner's Lot(s) or the Permanent Open Space or otherwise. In the event of default in the payment of any such assessment, the defaulting Owner shall be obligated to pay interest at the lesser of eighteen percent (18%) per annum or the highest lawful rate per annum on the amount of the assessment from the due date thereof until the date such assessment and interest is paid, together with all costs and expenses of collection, including reasonable attorney's fees.

**Section 10. Assessment Lien and Foreclosure.** All unpaid sums that have been assessed in the manner provided in this Article shall, together with interest as provided in this Declaration, plus the cost of collection (including reasonable attorney's fees), become a continuing lien and charge on the Lot and all Improvements thereon owned by the defaulting Owner as of the assessment due date, which shall bind such Lot and Improvements then in the hands of the Owner, and the defaulting Owner's heirs, devisees, personal representatives, successors, and assigns. Except as otherwise provided in this Declaration, the aforesaid lien shall be superior to all other liens and charges against such Lot and Improvements thereon. The Board shall have the power to subordinate the aforesaid assessment lien to any other lien, and such power shall be entirely discretionary with the Board. To evidence the aforesaid assessment lien, the Board may prepare a written notice of assessments claim of lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot and Improvements thereon covered by such lien, and a description of a Lot. Such notice of claim of lien shall be signed by one of the officers of the Association and/or its attorney, and shall be recorded in the Office of the Register of Deeds of Chatham and/or Durham Counties, North Carolina. Such claim of lien for payment of assessments shall attach with the priority above set forth from the date of recordation of such claim of lien. The claim of lien may be enforced by the foreclosure of the defaulting Owner's Lot and Improvements thereon by the Association in like manner as a deed of trust with power of sale on real property under Article 2A of Chapter 45 of the General Statutes of North Carolina, or the Association may institute suit against the Owner personally obligated to pay the assessments, or the lien may be enforced by judicial foreclosure or the Association may pursue one or more of the foregoing remedies and/or may seek any other available remedy or relief. In any foreclosure proceeding, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on the Owner's Lot and Improvements thereon at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same.

**Section 11. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein against a Lot shall be subordinate and inferior to the lien of any first mortgage or deed of trust on such Lot; provided, however, that such subordinations shall apply only to the assessments which have become due and payable prior to the sale (whether public or private) of such Lot pursuant to the terms and conditions of any such mortgage or deed of trust. Such sale shall not relieve any new Owner of the Lot from liability for the amount of any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

**Section 12. Permanent Open Space Exempt.** The Permanent Open Space and all the portions of the Property owned by or otherwise dedicated or conveyed to any governmental entity shall be exempt from the assessments and liens for same created herein. In addition, if

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required by the governmental entity to whom such Permanent Open Space or portion of the Property may be dedicated or conveyed free and clear of all of the terms, conditions, covenants and restrictions contained in this Declaration.

**ARTICLE VI**

**GENERAL POWERS AND DUTIES OF THE ASSOCIATION**

**Section 1. Powers and Duties of the Board.** The Association, acting through its Board, for the mutual benefit of the Owners of the Association, shall have the following powers and duties:

- (a) The Association shall be responsible for the improvement, repair, replacement, use, operation and maintenance of the Permanent Open Space as provided in this Declaration, including, but not limited to, planting, mowing, pruning, fertilizing, preservation and replacement of the vegetation and landscaping, and the upkeep and maintenance of nature trails, sprinklers, sprinkler pumps, wells, signs, lighting, planting boxes and other equipment, apparatus and Improvements located in the Permanent Open Space or located in easements granted to or reserved by the Developer or the Association. In addition, the Association shall be responsible for the operations and maintenance of roads and utilities (including the Community Water System, Water Reclamation Facility and Spray Irrigation System). With respect to the Common Property the foregoing responsibility is to such extent as the Board may determine, in its sole discretion, with consideration being given to the extent to which any governmental entity is responsible for and carrying out maintenance of same;
- (b) The Association is empowered to enter into agreements with the appropriate governmental authorities to enable the Association to improve, repair, replace, use, operate and maintain the Permanent Open Space or any portions thereof;
- (c) The Association is empowered to make reasonable rules and regulation for the use and operation of the Permanent Open Space, and to amend them from time to time; provided that any rule or regulation may be amended or repealed by an instrument in writing signed by the Members possessing seventy-five percent (75%) or more of the total eligible votes of the membership of the Association; provided further, prior to January 1, 2020, any such amendment must also be approved by the Developer before it may become effective;
- (d) The Association is empowered to enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Permanent Open Space and/or Common Property and the Association;
- (e) The Association is empowered to borrow funds to pay costs of operation of the Association, which borrowing may be secured by assignment or pledge of rights against delinquent Owners or by liens on other Association assets, as determined by the Board;

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- (f) The Association is empowered to enter into contracts to maintain one or more bank accounts, and generally, to have all the powers necessary or incidental to the operation and management of the Association;
- (g) The Association is empowered to sue or defend in any court of law on behalf of the Association; and to employ attorneys and other necessary professionals in connection therewith;
- (h) The Association shall, to the extent determined by the Board, provide adequate reserves for repairs and replacements of Permanent Open Space and/or Common Property;
- (i) The Association shall make available to each Member making written request therefore an annual financial report and, upon the written request of the Members possessing seventy-five percent (75%) or more of the total eligible votes of all the Members of the Association, to have such report audited (at the expense of the Association) by an independent certified public accountant, which audited report shall be made available to each Member making written request therefore;
- (j) The Association shall make available for inspection by Owners and holders of first lien mortgages or deeds of trust secured by Lots, upon reasonable request and during normal business hours, current copies of this Declaration and all Supplemental Declarations, the Bylaws, the rules and regulations of the Association, and the books, records and financial statements of the Association;
- (k) The Association is empowered to adjust the amount, collect, and use any insurance proceeds to repair damage to or replace Common Property; and if proceeds are insufficient to repair damage to or replace Common Property, to levy special assessments (in the manner provided herein) to cover the deficiency;
- (l) The Association is empowered to exercise all powers, duties and authority vested in or delegate to the Association by this Declaration, the Bylaws, or the Articles and not reserved to the Members or the Developer by other provisions of this Declaration, the Bylaws or the Articles;
- (m) The Association is empowered to employ a manager or firm to manage the business and property of the Association, and to employ independent contractors or other employees as the Board may deem necessary;
- (n) The Association is empowered to retain the services of legal and accounting firms;
- (o) The Association is empowered to administer and enforce the provisions of this Declaration and any rules made hereunder and to enjoin and/or, in its discretion seek damages or other relief from any Owner for violation of such provisions or rules;
- (p) The Association is empowered to contract with any third party or any Owner (including, without limitation, the Developer) for performance, on behalf of the

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Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be at competitive rates and otherwise upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association;

- (q) The Association shall establish the amount of and provide for the collection of annual and special assessments as provided for in this Declaration;
- (r) The Association is empowered to establish from time to time the tax status of the Association for Federal and State of North Carolina income tax purposes, as determined by the Board to be in the best interests of the Association;
- (s) The Association is empowered to contract with other nonprofit corporations or associations which exist for purposes substantially similar to those for which the Association exists with respect to the acquisition or lease or use of, and improvement, repair or maintenance of property owned by such corporation or association;
- (t) The Association is empowered to take any and all actions and to enter into any and all other agreements as may be necessary or proper for the fulfillment of its obligations hereunder, for the operational protection of the Association and for the implementation and enforcement of the terms, covenants, conditions and restrictions contained in this Declaration;

Section 2. Liability Limitations. Neither the Developer nor any member, the Board, any director on the Board, nor any officer of the Developer or the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Member, whether or not such other Member was acting on behalf of the Association or otherwise. Neither the Developer or the Association, nor any of the directors, officers, agents or employees of either shall be liable for any incidental or consequential damages for failure to inspect any property, premises, Improvements or portions thereof or for failure to repair or maintain the same. The Developer, the Association or any other Person liable to make such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board and all members of the architectural review committee and other committees appointed by the Board from and against all loss, costs, expense, damage, liability, action or cause of action arising from or relating to the performance by the Board and such architectural review committee and other committees of their duties and obligations except for any such loss, cost, expense, damage, liability, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

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ARTICLE VII

**INSURANCE: REPAIR AND RESTORATION**

**Section 1. Right to Purchase Insurance.** The Association is empowered to purchase, carry and maintain in force insurance covering any part or all of the Permanent Open Space and/or Common Property and any improvements thereon or appurtenant thereto and any other property of the Association, for the interest of the Association, the Board, its agents and employees, the Developer and its officers and employees, and of all Members of the Association, in such amounts and with such endorsements and coverage as the Board shall consider to be good, sound insurance coverage for similar properties. Such insurance may include, but need not be limited to:

- (a) Comprehensive public liability and property damage insurance on a broad form basis with respect to the Permanent Open Space and/or Common Property;
- (b) Coverage for the personal liability (if any) of the Developer (and its officers, agents, employees and servants), the Board (and the individual Members thereof), the officers of the Association, the Architectural Review Committee and other committees appointed by the Board, the Owners and Members;
- (c) Fidelity bond for all officers and employees of the Association and other Persons having control over the receipt of disbursement of Association funds; and
- (d) Worker's compensation insurance to the extent necessary to comply with applicable laws.

**Section 2. Insurance Proceeds.** Subject to any limitations imposed by any applicable financing documents, the Association shall use the net proceeds of casualty insurance recovered to repair and/or replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of casualty insurance paid to the Association remaining after satisfactory completion of repair and replacement shall be retained by the Association as part of the general reserve fund for repair and replacement of the Permanent Open Space and/or Common Property.

**Section 3. Insufficient Proceeds.** If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment in the manner provided for in this Declaration to cover the deficiency.

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ARTICLE VIII

USE OF LOTS AND PERMANENT OPEN SPACE – PROTECTIVE COVENANTS

Section 1. Land Use and Building Type. Each Lot shall be used exclusively for single-family, non-transient residential purposes. Except as otherwise allowed by the terms of this Declaration, no building or other structure shall be constructed, placed or allowed to remain on a Lot except one single-family dwelling, an attached or detached garage appurtenant thereto, and attached outbuilding or storage building appurtenant thereto, and/or a detached pump house serving a swimming pool on the Lot, with all of the foregoing meeting the requirements contained in this Declaration, including approval by the architectural review committee.

An Owner may maintain an office or home business in such Owner's residence only if: (i) such office or home business is operated by the Owner or a member of the Owner's household; (ii) there are no displays or signs indicating that the residence is being used other than as a residence; (iii) such office or business does not generate significant traffic or parking usage (as determined by the Board) by clients, customers or other persons; (iv) no equipment or other items related to the office or business is stored, parked or otherwise kept outside of an approved enclosure; (v) such Owner has obtained, and maintains in effect, all required approvals for such use; (vi) the activity is consistent with the residential nature of the Property; (vii) no person is employed in such office or home business except the Owner or the members of the Owner's household residing in the residence; and (viii) the Owner has obtained prior written approval from the Board and thereafter registers annually with the Association as long as the operation of the home business continues. As a condition to such use, the Board may require the Owner to pay increase in the rate of insurance, trash removal, utilities or other costs for the Association or other Owners which may result from such use. Garage sales, yard sales and similar activities shall be conducted only in accordance with the rules and regulations adopted by the Association and all applicable legal requirements.

Provided, however, and notwithstanding anything to the contrary that may appear herein: (i) the Developer, the Developer's agent, or any builder of homes on any Lot, subject to the Developer's written approval, shall be permitted to erect and maintain sales offices, model homes and temporary construction or sales trailers or offices on any Lot owned by the Developer or such builder for the purpose of carrying on business related to the development, improvement and sale of Lots and the construction of single-family residences within the Property. Provided, however, any such sales office, model home and temporary construction or sales trailer or office must be specifically approved by the Developer in writing and must comply with all applicable governmental laws and regulations; and (ii) the Developer and any Person authorized by the Developer may conduct such business activities on any Lot as may be necessary in connection with the Developer's development and/or sales of any part or all of the Property or the Project.

Section 2. Obstruction, etc. There shall be no obstruction of the Permanent Open Space and/or Common Property, nor shall anything be kept, stored, altered, constructed or planted in or on the Permanent Open Space and/or Common Property, or removed therefrom, without the

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prior written consent of the Developer or the Association. Provided, however, the Developer and the Association shall have the right to install, place, repair, replace and maintain signs in the Permanent Open Space and to install, maintain, repair and replace in the Permanent Open Space such materials, equipment and other apparatus as may be necessary to enable the Association to carry out its powers and duties under this Declaration.

**Section 3. Restricted Actions by Owners.** No Owner shall permit anything to be done or kept on such Owner's Lot or in the Permanent Open Space which will result in the cancellation of or increase in cost of any insurance carried by the Association, or which would be in violation of any law or any rule or regulation established by the Association. No waste shall be committed in the Permanent Open Space, except as may be necessary to enable the Developer or the Association to exercise any rights reserved to them hereunder or except as may be necessary to enable the Association to carry out its powers and duties hereunder. Each Owner shall comply with all applicable laws, regulations, ordinances (including without limitation, zoning ordinances) and other governmental rules and restrictions in regard to such Owner's Lot(s) and the Permanent Open Space, and shall do so notwithstanding any attempted waiver or approval given by the Developer or Architectural Review Committee under the terms of this Declaration.

**Section 4. Nuisance and Other Matters.** No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No trade materials or inventories (other than materials used for construction of dwellings or other approved structures on the Lots) may be stored upon any Lot and no tractors, inoperable motor vehicles, rubbish, trash, or unsightly materials of any kind may be stored, regularly placed, or allowed to remain on any Lot [except that trash, leaves, tree limbs, materials for recycling pick-up and similar items may be kept or placed on a Lot temporarily and only for such time as is reasonably necessary to enable the appropriate governmental or private entity to remove same from the Lot, or such materials may be kept on a lot for use as a compost (provided that such materials used for this purpose are neatly kept and are screened from view from any adjoining Lot or street as approved by the Architectural Review Committee) and inoperable motor vehicles may be stored on a Lot if the same are kept in an enclosed garage]. Provided, however, trucks and/or other construction vehicles, material and equipment may be allowed to remain on the Property temporarily during construction of roads, utilities and other Improvements within the Property and during construction on a Lot of a single-family residential dwelling and/or other Improvements which have been approved for construction by the Developer or the Architectural Review Committee established by this Declaration (the temporary nature of the foregoing to be determined by the Developer or by the Association or the Architectural Review Committee, when such right has been assigned by the Developer to the Association or the Architectural Review Committee). Notwithstanding the foregoing, no vehicle of any type or size which transports inflammatory or explosive cargo or which stores or transports materials or substances defined as hazardous or toxic by any applicable environmental laws of any governmental entity having jurisdiction over the Property may be kept or allowed to remain in or on the Property at any time, except as may be required to effectuate removal of such prohibited materials and substances.

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**Section 5. Animals.** No animals, livestock or poultry of any kind shall be kept or maintained on any portion of the Property or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes, that they do not create a nuisance (in the judgment of the Board), such as, but without limitation, by number, noise, odor, damage or destruction of property or refuse, and further provided that they are kept and maintained in compliance with (i) all laws and ordinances of the State of North Carolina, the County of Chatham or other applicable governmental entity relating thereto; and (ii) such rules and regulations pertaining thereto as the Board may adopt from time to time. In no event shall more than two dogs and/or two cats be regularly kept on any Lot.

**Section 6. Signs.** No sign(s) of any kind shall be displayed to the public view on any Lot except for signs which are approved in writing by the Developer and which are for one or more of the following purposes: (i) advertising the Lot for sale or rent; (ii) advertising the building contractor constructing improvements on the Lot during the initial construction and sales period; (iii) identifying the subdivision or phase name and/or identifying the Lot number or a Lot; and (iv) any other purpose approved by the Developer (or by the Board after the Class B membership terminates); provided, however, the foregoing limitations shall not act to restrict or prohibit the Developer or the Association or any applicable governmental entity from erecting, maintaining, repairing and replacing (and the Developer hereby reserves for itself, the Association and such governmental entities the right to erect, maintain, repair and replace) on a Lot or on the Permanent Open Space and/or Common Property and in any easement reserved or granted for such purposes, signs and billboards advertising the Property, the Project or portions of either, or signs identifying various subdivisions or phases of the Project or regulatory, street and directional signs. Notwithstanding the foregoing, all signs erected and maintained on any Lot must conform to all applicable governmental requirements.

**Section 7. Attachments.** No permanent attachments of any kind or character whatsoever (including, but not limited to, television, radio antennae and satellite dishes) shall be made to the roof or exterior walls of any residence on a Lot, unless such attachments shall have been first submitted to and approved in writing by the Architectural Review Committee. No outdoor clotheslines shall be allowed on any Lot without prior written approval of the Architectural Review Committee.

**Section 8. Damage to the Permanent Open Space.** Each Owner shall be liable to the Association and/or the Developer for any damage to the Permanent Open Space and/or Common Property caused by the negligent or willful misconduct of the Owner or such Owner's family members, guests, or invitees.

**Section 9. Rules of the Association.** All Owners and occupants of Lots shall abide by all rules and regulations adopted by the Association from time to time. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association and/or the Developer for all damages and costs, including attorney's fees.

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Section 10. Boats, etc. Neither a sailboat, motorboat, houseboat, jet ski or other similar waterborne vehicle, nor any airplane, nor any travel trailers, recreational vehicles, other trailers, or "camper" vehicles may be maintained, stored or kept on any portion of the Property, except in (i) enclosed garages or (ii) in area(s) specifically approved and with screens or covers as specifically approved in writing by the Developer or Architectural Review Committee (in the absence of approval or disapproval by the Developer).

Section 11. New Construction. Except as otherwise provided in this Declaration, construction of new dwellings only shall be permitted on Lots, it being the intent of this covenant to prohibit the moving of any existing building onto a Lot and remodeling or converting same into a primary residential dwelling house. Provided, however, the foregoing shall not be construed as prohibiting remodeling of or constructing additions to existing buildings or structures on a Lot that have been previously constructed thereon in compliance with this Declaration.

Other than a sales office or marketing trailer used by the Developer for marketing of the Lots, no mobile home, modular home or other similar structure shall be erected, placed or allowed to remain on a Lot. No pre-engineered or pre-fabricated buildings may be erected, placed or allowed to remain on a Lot without the prior written approval of the Architectural Review Committee.

Section 12. Outbuildings. No outbuilding or storage building shall be erected, placed or allowed to remain on any Lot except those which are incidental to residential use, do not exceed 500 square feet in size, are constructed of the same or substantially identical materials as the residential dwelling on the Lot, are architecturally compatible with the residential dwelling on the Lot, are located no closer to the front boundary line of the Lot than the rear wall of the single-family residence located on the Lot and no closer to any side boundary line of a Lot than the applicable building setback requirements, and which have otherwise been approved in writing by the Architectural Review Committee.

Section 13. On-Street Parking. The Owner of each Lot shall provide for adequate parking space on the Lot for vehicles of all types and all other apparatus designed for movement over and upon streets or highways (whether self-propelled or not) and regularly used by residents of the single-family residence on the Lot. No automobiles, trucks, vans, travel trailers, other trailers or any other apparatus designed for movement over and upon street or highways (whether self-propelled or not) shall be regularly parked on the streets within or adjoining the Property, and motor vehicles licensed to carry more than two (2) tons shall not be permitted to park overnight or regularly on the streets, driveways or otherwise within the Property, except that the Developer may allow such parking by any such vehicles used in connection with the construction of Improvements within the Property. In addition and supplemental to the prohibitions on parking set forth in this Declaration the Board is empowered to promulgate and enforce rules and regulations relating to parking on the streets within or adjoining the Property.

Section 14. No Temporary Structures. No structure of a temporary character, such as a trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a dwelling house.

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Section 15. Landscaping. Except for the single-family residence, driveways, sidewalks and other Improvements on each Lot, the surface of each Lot shall be of undisturbed areas left in their natural state or grass or other live foliage or area covered with pine straw and/or other ground cover approved by the Architectural Review Committee, and such natural areas, grass, foliage, pine straw and ground cover shall be neatly maintained at all times.

Section 16. Fences and Walls. Except as specifically approved in writing by the Architectural Review Committee, no fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street fronting such Lot than the front building corner of the main dwelling constructed on such Lot and shall not exceed six (6) feet in height unless otherwise specifically required by governmental authorities having jurisdiction. All fences on Lots shall be maintained at all times in a structurally sound and attractive manner and in a good state of repair. All fences on Lots shall be of wood, metal (excluding chain link), masonry or other material approved by the Developer (or the Board, when the right to appoint the Architectural Review Committee has been assigned to the Board) and no fence shall be constructed, placed or allowed to remain on any Lot until the Owner thereof has obtained approval for such fence from the Architectural Review Committee.

Section 17. Sight Line Limitations. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above 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 a point twenty (20) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of sight lines.

Section 18. Antennae. No exterior antennae, earth satellite station, microwave dish or other similar improvements may be constructed, placed, maintained or allowed to remain on any Lot or on any Improvement located on any Lot unless the same is no greater than one meter (39.37 inches) in diameter and is screened by material approved by the Architectural Review Committee so that it cannot be seen from the street on which the single-family residence situated on the Lot fronts or from any adjacent Lot.

Section 19. Gas or Propane Meters. No gas or propane meters shall be set in the front of a residence on a Lot unless such meter is of an underground type or is screened in a manner approved by the Architectural Review Committee.

Section 20. Utility Yards. Each Lot on which a single-family residence is located shall have thereon one or more utility yards. At least one such utility yard shall be constructed at the same time as the single-family residence is constructed, unless provision is made for the housing or storage of the items set forth in this Article either inside the single-family residence or inside the garage. Each utility yard shall be walled or fenced or otherwise screened, using materials with height and design approved by the Architectural Review Committee. The

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following buildings, structures and objects may be constructed or placed on a Lot and allowed to remain on a Lot only if the same are located wholly inside the single-family residence or garage on the Lot or wholly within a utility yard located on the Lot: pens, yards and houses for pets; above ground garbage and trash cans or receptacles (unless by applicable governmental law or regulation the same must be located elsewhere); above ground and exterior air-conditioning, heating and other mechanical equipment; and all other buildings, structures and objects determined by the Architectural Review Committee to be of a similar nature to the foregoing items or determined by the Architectural Review Committee to be of an unsightly nature or appearance.

Section 21. Mailboxes. All mailboxes, unless affixed to the residence on a Lot (which either must be approved by the Architectural Review Committee or otherwise required by applicable governmental law or regulation or United States Postal Service (or successor agency regulation) shall be affixed to a substantial pole or stand permanently placed in the ground and shall not be located within a sidewalk. Architectural guidelines with respect to mailboxes may require, prohibit, restrict or specify one or more of the following: method and type of support, style, material, color, size, height; and one or more of the foregoing with respect to the numbering and/or lettering to be placed on a mailbox or affixed thereto.

Section 22. Utilities. Except as otherwise specifically approved by the Architectural Review Committee, all electric, telephone, water and sewer, propane gas and cable television utilities and utility connections shall be located underground or screened in such manner as is approved by the Architectural Review Committee. Transformers, electric, gas or other meters of any type, or other utility apparatus shall be contained within the buildings constructed on Lots or, if adequately screened in a manner approved by the Architectural Review Committee, the same may be located on the exterior buildings.

Section 23. Minimum Square Footage. The main dwelling house constructed on each Lot subject to this Declaration shall have an enclosed floor area of the main structure, exclusive of garages, open and screened porches, decks, terraces, patios, and chimneys of not less than 2,600 square feet for a one-story and 3,000 square feet for a dwelling in excess of one story, and the ground floor of each such main dwelling house exceeding one story in height shall have an enclosed floor area, exclusive of garages, open and screened porches, decks, terraces, patios and chimneys of not less than 1,500 square feet. Provided, however, the Developer shall have the right at any time and from time to time to allow or require variances from, and the right to waive violations of, such minimum total floor area and ground floor area requirements of up to five percent (5%) of either or both of such minimum area requirements, such variances or waivers to be in writing. Should any question arise as to whether or not any structure or improvement, other than those items specifically excluded by this Article, is part of the main dwelling house, the Architectural Review Committee shall have the authority to make such determination, and the decision of the Architectural Review Committee shall be final.

Section 24. Building Setback Distances. The main dwelling house on each Lot shall not be located on any Lot nearer to the Lot boundary lines than the building setback lines specified as follows or, if a greater setback is required thereby, as required by applicable zoning laws and other governmental requirements:

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- (a) Front Setback – forty (40) feet from the front boundary line of the Lot;
- (b) Side Setback – fifteen (15) feet from each side boundary line of the Lot; provided, however, when a Lot adjoins two or more street right-of-way lines, no less than twenty (20) feet from the side boundary line of the Lot adjoining the street right-of-way line and no less than fifteen (15) feet from any other side boundary line of the Lot.
- (c) Rear Setback – fifty (50) feet from the rear boundary line of the Lot.

If any minimum setback distance specified herein is different from any minimum setback distance shown on any recorded plat of any part or all of the Property, the greater distance shall be controlling with respect to the Lot or Lots affected thereby.

The Developer reserves the right to waive, in writing, any minor violation of the setbacks contained in this Section. A minor violation shall be defined as any violation which does not exceed twenty (20%) percent of the required setback established hereunder. Unintentional violations of the setbacks contained herein which do not exceed ten (10%) percent of the required setback shall not be considered a violation hereunder.

For the purpose of determining the foregoing building setback distances under this Declaration, eaves, steps, stoops, open and screened porches, overhangs, bay windows, decks, patios, terraces and chimneys shall not be considered as a part of the main dwelling house, but the location of such Improvements on a Lot shall be subject to the architectural control and approval provisions applicable to the Lots subject to this Declaration. Provided, notwithstanding anything to the contrary that may appear herein, no dwelling or other improvement on a Lot shall encroach upon another Lot. Should any question arise under this Declaration as to whether or not any portion of the main dwelling house (other than the foregoing items specified as not being part of the main dwelling house) should be considered as part of the main dwelling house for the purpose of determining the foregoing building setback distances, the Architectural Review Committee shall have the authority to make such determination and the decision of the Architectural Review Committee shall be final.

Section 25. Exterior Materials. The exterior materials of each building constructed, altered or placed on a Lot shall consist of brick, stone or other masonry, wood siding and/or fibrous cement board (i.e., hardy plank) or such other first class materials as the Architectural Review Committee may approve. Garages shall be of the same construction and exterior finish as the main dwelling house thereon. Detached accessory buildings shall be of the same construction and material as listed in this section. All roofs on all Improvements constructed on each Lot shall be of slate, clay tile, cedar shingles, cedar shakes, dimensional shingles, standing seam cooper or laminated, heavy weight compositions shingles (for example, Architect 80 or Timberline) or such other materials and color as may be specifically approved by the Architectural Review Committee.

Section 26. Prohibition of Tree Removal. Within the Rear Setback on each Lot, no tree greater than eighteen (18) inches in diameter or greater shall be removed unless such tree is diseased or damaged without the prior approval of the architectural review committee.

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Section 27. Horseback Riding. No horseback riding shall be permitted on the Property except on designated paths as may be established by the Association.

Section 28. Hunting. Hunting and trapping of wild animals, fowl, and game, and the discharge of firearms (including, without limitation, BB guns, air rifles, and "paint guns"), and bows and arrows, within the Property is prohibited unless required for public safety.

Section 29. Governmental Requirements. Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements or restrictions relative to the location or construction of Improvements on a Lot and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Provided, that in any instance in which the provisions of this Declaration impose a more restrictive requirement than the applicable governmental requirements or restrictions, the provisions of this Declaration shall control.

ARTICLE IX

ARCHITECTURAL CONTROL

Section 1. General. Anything contained in this Declaration to the contrary notwithstanding, no site preparation on any Lot, no change in grade or slope of any Lot, no landscaping or plantings or exterior lighting, either attached or detached to any building, no construction or placement of any building or exterior additions or alterations to any building situated upon a Lot, and no construction of or changes or additions to any other structure or Improvement on a Lot shall be commenced, nor shall any of the same be placed, maintained or allowed to remain, on any Lot until the "Architectural Review Committee" (appointed as hereinafter provided) has approved in writing the plans and specifications therefor and the location of such improvement.

Section 2. Composition. Through and including December 31, 2020, unless such right is previously assigned as provided herein, the Developer shall annually appoint the members of the architectural review committee which will be composed of at least three (3) individuals (the exact number of members of the Architectural Review Committee to be designated by the Developer from time to time), each generally familiar with residential and community development design matters and knowledgeable about the Developer's concern for a high level of taste and design standards within the Project. Members of the Architectural Review Committee need not be Members of the Association. The members so appointed are to serve for the next succeeding calendar year. In the event of the death or resignation of any members of the architectural review committee, the Developer, for so long as it has the authority will designate and appoint a successor. No member of the Architectural Review Committee shall be liable for claims, causes of action or damages (except where occasioned by gross negligence or willful misconduct of such member) arising out of services performed pursuant to this Declaration. Subsequent to December 1, 2020 (and earlier if the Developer specifically assigns

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this right to the Board), the Board shall designate the number of and appoint the members of the Architectural Review Committee. At any time and from time to time the Developer may assign to the Board its right to appoint members of the Architectural Review Committee.

The Developer (and the Board when applicable), in its discretion, may at any time and from time to time appoint two separate Architectural Review Committees, one for the purpose of reviewing plans, specifications and site plans for initial Improvements on a Lot, the specific division of such reviews to be as specified by the Developer (or the Board when applicable). Each such Architectural Review Committee separately shall be subject to and shall comply with the provisions of this Declaration applicable to the Architectural Review Committee and review of plans, specification and site plans.

Section 3. Procedure. No exterior Improvement of any kind or nature shall be constructed, repaired, replaced, remodeled, placed or allowed to remain on any Lot until all plans and specifications therefor and a site plan therefor have been submitted to and approved in writing by the Architectural Review Committee, as to:

- (a) type of materials, adequacy of site dimensions and facing of main elevation with respect to nearby streets;
- (b) conformity an harmony of the external design, color, type and appearance of exterior surfaces and compatibility with existing Improvements within the Property;
- (c) location of the Improvement on a Lot and effect of location and use on neighboring Lots and Improvements situated thereon;
- (d) provisions for handing water drainage and other erosion control measures, especially in cases where neighboring Lots may suffer;
- (e) location, size, type and number of all plantings of trees, shrubbery and other landscaping to be performed on a Lot, including all exterior lighting, either attached to a building or free standing must be included in the overall landscaping plan. All exterior lighting must comply with the Chatham County Lighting Ordinance in addition to the Architectural Review procedure hereunder;
- (f) compliance with the provisions of this Declaration and compliance with any architectural guidelines that may be established from time to time by the Developer (or by the Board when the Board has the right to appoint the members of the Architectural Review Committee, or by the Architectural Review Committee, if such power is delegated to it by the Developer or the Board otherwise possessing such power).

Final plans and specifications for all Improvements proposed to be constructed on a Lot shall be submitted to the Architectural Review Committee for approval or disapproval in such format and in such numbers or sets (not to exceed three) as the Architectural Review Committee may require. The Architectural Review Committee is authorized to request the submission of samples of proposed construction materials and colors. At such time as the plans

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and specifications shall be retained by the Architectural Review Committee and another complete set of plans and specifications shall be marked "Approved" and returned to the Lot Owner or such Owner's designated representative. If such plans and specifications are determined not to be in compliance with this Declaration, or if the same are otherwise unacceptable to the Architectural Review Committee because of inadequacy or noncompliance with respect to the provisions of this Section, one set of plans and specifications shall be returned to the Lot Owner marked "Disapproved, accompanied by a reasonable statement of items found not to be in compliance with this Declaration or otherwise unacceptable. Any modifications or change in the plans and specifications submitted to and approved by the Architectural Review Committee must again be submitted to the Architectural Review Committee for its inspection and approval in accordance with requirements established by the Architectural Review Committee. The Architectural Review Committee's approval or disapproval, as required herein, shall be in writing. The Architectural Review Committee is required to respond to an applicant within 30 calendar days from the receipt of such submittal for approval.

The Developer (or the Board, when the Board has the right to appoint members of the Architectural Review Committee, or the Architectural Review Committee, when such power has been delegated to it by the Developer or the Board possessing such power) may from time to time adopt procedures for conducting the architectural reviews and other duties of the Architectural Review Committee, provided that such procedures do not conflict with the specific requirements of this Declaration.

The Developer (or the Board, when the Board has the right to appoint members of the Architectural Review Committee, or the Architectural Review Committee, when such power has been delegated to it by the Developer or the Board possessing such power) at any time and from time to time may establish architectural guidelines shall be fair and reasonable, and shall carry forward the spirit and intention of this Declaration. Although the Architectural Review Committee shall not have unbridled discretion with respect to taste, design and any standards specified herein or in such guidelines, the Committee shall be responsive to technological advances or general changes in architectural designs and materials and related conditions in future years and use its best efforts to balance the equities between matters of taste and design (on the one hand) and use of private property (on the other hand). Subject to the specific terms and conditions of this Declaration, different architectural guidelines may be promulgated and applied to different phases, or subdivisions, with the Project. Such guidelines shall supplement, but not supersede, the provisions of this Declaration. Provided, however, if there is conflict between any such guideline and the specific provisions of this Declaration, any Supplemental Declaration or any recorded declaration of covenants, conditions and restrictions applicable to any subdivision or section in the project, the provisions of this Declaration, such Supplemental Declaration or such other recorded declaration shall control.

Section 4. Jurisdiction. In addition to the foregoing, the Architectural Review Committee is authorized and empowered to consider and review any and all aspects of the construction of any Improvements on a Lot which may, in the reasonable opinion of the Architectural Review Committee, adversely affect the living enjoyment of one or more Owners or the general value of the Property or the Project.

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Section 5. Enforcement. The Architectural Review Committee shall have a specific, nonexclusive right (but not obligation) to enforce the provisions contained in this Article of this Declaration and/or to prevent any violation of the provisions contained in this Article of this Declaration by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions.

Section 6. Failure to the Architectural Review Committee to Act. If the Architectural Review Committee fails to approve or disapprove any plans, specifications and other submittals which conform with the requirements for such submittals established as provided herein or to reject them as being inadequate or unacceptable within thirty (30) days after submittal thereof to the Architectural Review Committee, and provided such submittal was a full and complete submittal of all items required by this Declaration any applicable architectural guidelines to have been submitted to the Architectural Review Committee, it shall be conclusively presumed that the Architectural Review Committee has approved such conforming plans and specifications and other submittals, except that the Architectural Review Committee has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in this Declaration, in any applicable Supplemental Declaration, or of any applicable governmental entity. If plans and specification or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Review Committee may reject them as being inadequate or may approve or disapprove the same in part, conditionally or unconditionally, and reject the balance.

Section 7. Limitation of Liability. Neither the Architectural Review Committee nor the members thereof, nor the Developer, nor the Association, shall be liable in damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgement, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specification.

Section 8. Miscellaneous. No member of the Architectural Review Committee shall be entitled to compensation for, or be liable for, claims, causes of action or damages (except where occasioned by gross negligence or arbitrary and capricious conduct) arising out of services performed pursuant to this Declaration. The Association may reimburse members of the Architectural Review Committee for reasonable out-of-pocket expenses.

ARTICLE X

EASEMENTS

Section 1. Easements Reserved by the Developer.

- (a) Easements for installation, maintenance, repair, replacement, use, operation and removal of public or private utilities, drainage facilities and impoundments are reserved by the

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Developer for itself, its successors and assigns, over, under and across the Lots (other than the portions thereof use as building sites), and in any event over no less than a ten (10) foot strip inside of and adjacent to the front, rear and side property boundaries of each Lot. Full right of ingress and egress shall be had by the Developer at all times over the Lots (other than the portions thereof used as building sites) for the installation, use, operation, maintenance, repair, replacement or removal of any utility, drainage facility or impoundment, together with the right to remove any obstruction that may be placed in any easement that would constitute interference with the use of such easement, or with the use, installation, maintenance, repair, replacement, removal or operation of same. Assignees to whom the Developer reserves the right to assign and convey, in whole or in a part, the easement reserved by it hereunder shall include, without limitation, the Association and one or more governmental entities or public utility companies.

(b) The Developer and the Association reserve the right to subject the Property to a contract with Duke Power Company for the installation of under ground electric cables and lines and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Duke Power Company by each Owner.

Section 2. Easement Reserved for the Association. Full rights of ingress and egress shall be had by the Association at all times over and upon each Lot for the maintenance and repair of each Lot in accordance with the provisions hereof and for the carrying out by the Association of its rights, power, duties and obligations hereunder; provided, that any such entry by the Association upon any Lot shall be made with as minimum inconvenience to the Owner as reasonably practicable, and any damage caused as a result of the gross negligence of the Association's employees or agents shall be repaired by the Association at the expense of the Association.

Section 3. Easement Reserved for Governmental Entities and Public Utilities. An easement is hereby established for applicable governmental entities and municipal, state or public utilities serving the Project, and their agents and employees, over all Lots and over Permanent Open Spaces hereby or hereafter established, for the purpose of setting, removing and reading utility meters, maintaining, repairing and replacing street, utility or drainage connections, and acting for other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection, the rights granted by easements to be exercised in a reasonable manner and at reasonable times (except in the case of an emergency).

Section 4. Easements Shown on Recorded Maps. The Developer, for itself, its successors and assigns (including, without limitations, governmental entities and the Association), and in addition to those easements reserved in this Declaration, hereby reserves easement in the locations and for the purposes shown and indicated on all maps of Lots subject to this Declaration that are recorded in the Chatham and/or Durham Counties, North Carolina Registry.

Section 5. Ingress and Egress. Notwithstanding anything to the contrary appearing in this Declaration, if ingress, egress and regress to any Lot is through any part of the Permanent Open Space, the Permanent Open Space shall be subject to an easement for ingress, egress and

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regress for the benefit of such Lot over, across through and upon such portion of the Permanent Open Space which is designated for ingress and egress (by a public or private street or right-of-way) and shown on a recorded plat of such Permanent Open Space or the Lot affected thereby or created or reserved by the Developer in an instrument recorded in the Chatham and/or Durham Counties, North Carolina Registry.

**Section 6. Easements for Unintentional Encroachments.** An easement is hereby established for unintentional encroachments of Improvements constructed on any Lot to the extent that such improvement actually encroaches onto the Permanent Open Space. Notwithstanding the foregoing, in no event shall any Improvement constructed on a Lot encroach upon another Lot.

ARTICLE XI

MAINTENANCE

**Section 1. Duty of Maintenance.** The Owner of each Lot in the Property shall have the duty and responsibility, at such Owner's sole cost and expense, to keep and maintain such Lot, including all Improvements thereon, ground and drainage easements or other rights-of-way incident thereto, in accordance with the terms and provisions of this Declaration and in a well-maintained, safe, clean and attractive condition at all time. Such maintenance includes, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse, and wastes;
- (b) Lawn mowing and maintenance on a regular basis, including (subject to any applicable governmental laws or regulations) any portions of a public or private street right-of-way adjacent to any boundary of the Lot;
- (c) Tree and shrub pruning and removal of dead or diseased trees and shrubs;
- (d) Watering by means of a lawn sprinkler system or hand watering as needed;
- (e) Keeping exterior lighting and mechanical facilities in working order;
- (f) Keeping lawn and garden areas alive;
- (g) Removing any dead plant material;
- (h) Keeping vacant land well maintained and free of trash and weeds;
- (i) Keeping parking areas and driveways in good repair;
- (j) Complying with all governmental health, fire and police requirements;

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- (k) Repainting of Improvements; and,
- (l) Repair of exterior damage to Improvements.

Section 2. Owner's Obligations to Repair. Except for those portions, if any, of each Lot which the Association is required to maintain or repair hereunder, each Owner shall, at such Owner's sole cost and expense, maintain and repair such Owner's Lot and the Improvements situated thereon, keeping the same in good condition and repair and in compliance with the covenants, conditions and restrictions herein contained. In the event that any Owner shall fail to maintain and repair such Owner's Lot and/or such Improvements as required hereunder, the Association, in addition to all other remedies available to it hereunder or a law or in equity, and without waiving any of such alternative remedies, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements (including, without limitation, all Improvements) erected thereon; and each Owner (by acceptance of a deed for a Lot) hereby covenants and agrees to repay to the Association the cost thereof immediately upon demand, and the failure of any such Owner to pay the same shall carry with it the same consequences as the failure to pay any assessment hereunder when due. The Association, at the cost of the Owner of the affected Lot, shall, if the Owner of such affected Lot fails to promptly (and in any event, within sixty (60) days following the date of the casualty) do so following the date of occurrence of the hereinafter described damage, cause any and all improvements situated upon a Lot which are damaged or destroyed by fire or other casualty to be repaired and/or removed so as not to present an unsightly appearance and/or unsafe condition, with the cost of same to be charged to and collected from the Owner in the manner provided in this Section.

The Developer or The Association must retain any undeveloped Permanent Open Space in a vegetated or natural state.

Section 3. Enforcement. If any such Owner (or occupant of such Owner's Lot) has failed in any of the duties or responsibilities of such Owner as set forth in this Declaration, then the Association or the Developer may give such owner written notice of such failure and such Owner must, within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered, and sent by certified mail, return receipt requested), perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner. Should any such Owner fail to fulfill this duty and responsibility within such period, then the Association or the Developer, acting through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such care and maintenance without any liability to any Person for damages for wrongful entry, trespass or otherwise. The Owner of a Lot on which such work is performed shall be liable to the Developer or the Association for the cost of such work, together with interest on the amounts expended by the Association or the Developer in performing such work computed at the highest lawful rate from the date(s) such amount are expended until repaid, and for all costs and expenses (including attorney fees) incurred by the Developer or the Association in seeking the compliance of such Owner with the duties and responsibilities of Owners hereunder, and shall reimburse the Association or the Developer, as the case may be, on demand for such costs and expenses (including attorney fees and interest). If such Owner

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shall fail to reimburse the Association or the Developer, as the case may be, within thirty (30) days after mailing to such owner of a statement for such costs and expense by the Association or the Developer, then, without limitation of any other rights of the Association or the Developer, the Association may issue a special assessment against such owner, and may enforce and collect the same, as provided in the Sections of this Declaration relating to assessing, enforcing and collecting assessments.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 1. Duration. This declaration and the terms, covenants, restrictions and provisions set forth herein shall run with and bind the Property and shall inure to the benefit of every Owner of a Lot in the Property, including the Developer, and their respective heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded and continuing through and including December 31, 2030. At such time, the easements, covenants, conditions and restrictions herein shall be automatically extended for successive period(s) of ten (10) years each unless, at a duly called annual or special meeting of the Association at which a quorum is present held prior to the expiration of the applicable time period, termination of this Declaration is approved by the affirmative vote of seventy-five percent (75%) or more of the votes entitled to be cast by the Members present or represented by proxy. A vote by the membership on termination of this Declaration may be held only upon presentation to the Association of a petition for termination signed by Members possessing no less than twenty-five percent (25%) of the total eligible vote of the membership of the Association, which petition, in case of an annual meeting of the Association, shall be presented to the Association prior to the date that notice of any annual or special meeting at which termination of this Declaration is to be considered and voted upon to all Owners at least thirty (30) days in advance of the date of such meeting, which notice shall set forth that termination of this Declaration will be considered and voted upon at such meeting. If the membership votes to terminate this Declaration, such termination shall be effective upon the expiration of the ten applicable time periods for which this Declaration is in existence, or shall be effective in such date thereafter as may be specified in the resolution of termination passed by the membership as required herein (it being the intention of this Section, notwithstanding anything to the contrary appearing herein, that if the membership has voted to terminate this Declaration, the membership may set a date of termination that may result in this Declaration continuing to be in effect for a period of less than ten (10) years following the expiration of a preceding time period in which this Declaration was in effect).

The quorum required at the annual or special meeting at which termination of this Declaration is to be considered by the membership pursuant to the petition filed with the Association shall be the presence of Members plus proxies entitled to cast sixty percent (60%) or more of the total vote of the membership. If such quorum is not present, subsequent meeting(s) may be called until a quorum is present, subject to the same notice requirements, and the required quorum at such subsequent meeting(s) shall be one-half (1/2) of the required quorum at the immediately preceding meeting.

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If the Members vote to terminate this Declaration in accordance with the foregoing requirements, then the President and Secretary of the Association shall execute in recordable form a certificate which shall set forth at least the following information: the Resolution of Termination adopted by the Association; the date of the meeting of the Association at which such resolution was adopted; the date that notice of such meeting was given, the total number of votes required to constitute a quorum at such meeting; the total number of votes present at such meeting; the total numbers of votes necessary to adopt the resolution terminating this Declaration; the total number of votes cast in favor of such resolution; and the total number of votes cast against the resolution. Such certificate shall be recorded in the Chatham County, North Carolina Registry no later than thirty (30) days following the date such resolution of termination is passed by the membership, and such certificate may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

Section 2. Amendment. Subject to the limitations hereinafter contained, this Declaration or any Supplemental Declaration hereto may be amended or modified at any time prior to December 31, 2030 by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots subject to this Declaration. All such amendments must be recorded in the Chatham and/or Durham Counties, North Carolina Registry and shall not become effective until recorded. No such amendment shall limit the rights of the Developer under this Declaration as long as there is a Class B Membership. In addition to the foregoing rights, and notwithstanding anything to the contrary that may appear herein, the Developer may (at the Developer's options) at any time and from time to time amend or modify this Declaration and any Supplemental Declaration without obtaining the consent or approval of the Members or any other person or entity if such amendment or modification is necessary for any one or more of the following purposes: to correct an obvious typographical error; to cause this Declaration or any such Supplemental Declaration to comply with the requirements of FHA (Federal Housing Administration), VA (Veterans Administration), Fannie Mae (Federal National Mortgage Administration) or other similar agency; or as be necessary to establish or maintain the tax exempt status of the Association under the laws of the United States of the State of North Carolina.

Section 3. Dissolution or Insolvency of the Association. The Association shall be dissolved upon the termination of this Declaration, or upon the written assent given in writing and signed by not less than two-thirds (2/3) of the Members of each class of membership, or upon such more restrictive or additional conditions and in such manner as otherwise provided by the laws of the State of North Carolina. Upon dissolution or insolvency of the Association or upon loss of ownership of the Permanent Open Space (once such ownership has been acquired) by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the Permanent Open Space as allowed by this Declaration or by reason of merger and/or consolidation with any other association as allowed by this Declaration), any portion of the Permanent Open Space not under the jurisdiction of and being maintained by another association substantially similar to the Association, together with all other assets of the Association, shall be offered to the County of Chatham, North Carolina, or to some other appropriate governmental entity or public agency as determined by the Board to be dedicated for public uses for purposes similar to those to which the Permanent Open Space

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and such assets were required to be devoted by the Association. If the County of Chatham or such other appropriate governmental entity or public agency accepts the offer of dedication, such portion of the Permanent Open Space and assets shall be conveyed by the Association to the County of Chatham, North Carolina or such other appropriate governmental entity or public agency, subject to the superior right of the owner of each Lot an easement (if necessary) for reasonable ingress and egress to and from such Owner's Lot and the public or private street(s) on which such Lot is located, and subject to all other applicable rights of way and easements and subject to ad valorem property taxes subsequent to the date of such conveyance.

In the event that the Counties of Chatham or Durham, North Carolina or such other appropriate governmental entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey such Permanent Open Space and assets to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the Permanent Open Space was required to be devoted by this Declaration, such conveyance to be made subject to the rights or Owners and other matters set forth in the immediately preceding paragraph

Section 4. Enforcement. The Developer, the Association, and every Owner shall have the right to enforce the terms, covenants, conditions, restrictions, easements, charges and liens for which provision is made in this Declaration, which enforcement shall be by any proceeding at law or in equity (or otherwise, as provided in this Declaration) against any Person violating or attempting to violate any such term, covenants, conditions, restrictions, easement, charge or lien either to restrain violation or to recover damages, and against the land, to enforce any lien created by these covenants; and failure by the Association, the Developer or any Owner to enforce any such term, covenant, condition, restriction, easement, charges or lien shall in no event be deemed a waiver of the right to do so thereafter or a waiver of any other or future violation of any of same.

Section 5. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses and phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null and void.

Section 6. Notice. Except as otherwise provided herein, whether writing notice to an Owner (including the Developer) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owner appearing on the records of the Association. If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail properly addressed, with postage prepaid, whether received by the addressee or not. It shall be the duty of each Owner to keep the Association informed of such Owner's current mailing address and telephone number. If an

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Owner has not provided the Association with the Owner's current mailing address the Association may use the street address of such Owner's Lot for that Owner's mailing address.

Section 7. Titles. The titles, headings and captions, which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

Section 8. Number and Gender. Whenever the context of this Declaration requires, the singular shall include the plural and one gender shall include all.

Section 9. No Exemption. No Owner or other party may exempt himself from the coverage hereof or obligations imposed hereby non-use or abandonment of such Owner's Lot(s) or the Permanent Open Space.

Section 10. FHA/VA Approval. Notwithstanding any provision in this Declaration to the contrary, through and including December 31, 2030, the following actions shall require the approval of the Federal Housing Administration (FHA) or Veterans Administration (VA) if the Developer desires to qualify parts or all of the Property for FHA or VA approvals: (i) annexation of Additional Property; (ii) mergers and consolidations involving the Association; (iii) mortgaging of Permanent Open Space; (iv) dissolution of the Association; and (v) exchange of Permanent Open Space.

Section 11. Subdivision, Combination of Lots. No Lot shall be subdivided. One or more Lots may be combined into a single Lot with the written consent of the Developer and, upon such combination and consent of the Developer, the resulting Lot shall be considered as one Lot for the purposes of this Declaration. Provided, the foregoing shall not prohibit or restrict the right (which is hereby reserved) of the Developer to subdivide, combine, resubdivide, recombine or re-record maps relating to, any Lots subject to this Declaration.

Section 12. Conflict Between Declaration and Articles, Bylaws. Whenever there exists a conflict between the provisions of this Declaration and the Articles or Bylaws, the provisions of this Declaration shall control, and whenever there is a conflict between the provisions of the Articles and Bylaws, the Provisions of the Article shall control.

Section 13. Laws of North Carolina and the United States. This Declaration shall be subject to and construed in accordance with the laws of the State of North Carolina and all applicable laws and regulations of the United States of America. Whenever there is a conflict between the provisions of this Declaration, any Supplemental Declaration or the Bylaws and any applicable laws of the State of North Carolina, the United States or any other governmental entity having jurisdiction over the Property, such law shall control.

Section 14. Assignment. The Developer specifically reserves the right, in its sole discretion, at any time and from time to time, to assign (temporarily or permanently) any or all of its rights, privileges and powers under this Declaration or under any Supplemental Declaration.

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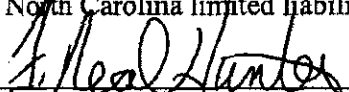
Section 15. Recordation of Documents. Whenever there is any reference in this Declaration to the recordation of document, unless there is a contrary reference associated therewith, the place of recordation shall be in the office of the Register of Deeds for Chatham and/or Durham Counties, North Carolina.

Section 16. Waiver by Declarant. Declarant hereby reserves the right to waive any violation of the terms, conditions and restrictions contained in this Declaration, in writing, in the Developer's absolute discretion which discretion may be arbitrary, until the Class B Membership is terminated and converted to Class A Membership as described in Article 3 above.

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IN WITNESS WHEREOF, the undersigned, being the Developer herein, has caused this Declaration to be signed in its company name by its duly authorized Manager, all by authority of its Members, the day and year first above written.

COLVARD FARMS DEVELOPMENT COMPANY, LLC,  
a North Carolina limited liability company

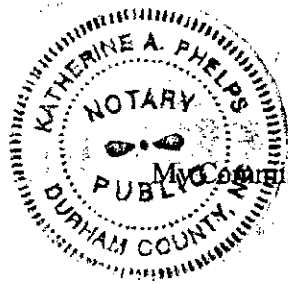
  
F. Neal Hunter, Manager

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STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, Katherine A. Phelps, a Notary Public of the County of Durham, State of North Carolina, do hereby certify that F. Neal Hunter personally came before me this day and acknowledged that he is the Manager of Colvard Farms Development Company, LLC, a North Carolina limited liability company, and that by authority duly given and as an act of the limited liability company, the foregoing instrument was signed in its name by its Manager.

Witness my hand and official seal this the 16<sup>th</sup> day of January, 2008.<sup>3</sup>



Katherine A. Phelps  
Notary Public

My Commission Expires: 5-1-07

BOOK 991 PAGE 350

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be signed in its corporate name by its duly authorized officer, by authority of its Board of Directors, the day and year first above written.

BRANCH BANKING & TRUST COMPANY,  
a North Carolina banking corporation

By: [Signature]  
Senior Vice President

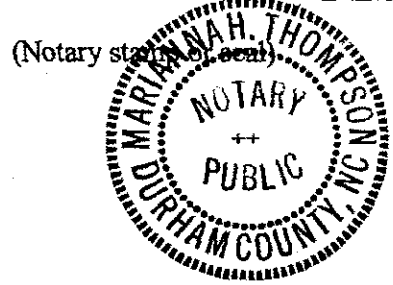
STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, Marianna H. Thompson, a Notary Public of the County of Durham, State of North Carolina, do hereby certify that Earl W Tye personally came before me this day and acknowledged that he/she is Sr Vice President of Branch Banking & Trust Company, a North Carolina banking corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its Sr Vice President.

Witness my hand and official seal this the 21st day of January, 2003.

[Signature]  
Notary Public

My Commission Expires: 5-8-2004



BOOK 991 PAGE 351

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be signed in its corporate name by its duly authorized officer, by authority of its Board of Directors, the day and year first above written.

CAROLINA BUILDERS CORPORATION,  
a North Carolina corporation

By: Mark L. Ashburn  
Vice - President

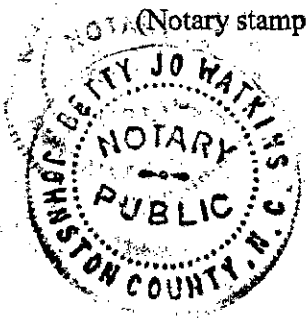
STATE OF NORTH CAROLINA  
COUNTY OF Wake

I, Betty Jo Watkins, a Notary Public of the County of Johnston, State of North Carolina, do hereby certify that Mark L. Ashburn personally came before me this day and acknowledged that he/she is Vice President of Carolina Builders Corporation, a North Carolina corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its Vice President.

Witness my hand and official seal this the 22 day of January, 2003.

Betty Jo Watkins  
Notary Public

My Commission Expires: 5/03/03



BOOK 991 PAGE 352

IN WITNESS WHEREOF, the undersigned, being the Builder herein, has caused this Declaration to be signed in its corporate name by its duly authorized officer, by authority of its Board of Directors, the day and year first above written.

ALEX MITCHELL CONSTRUCTION, INC., a North Carolina corporation

By: [Signature] President

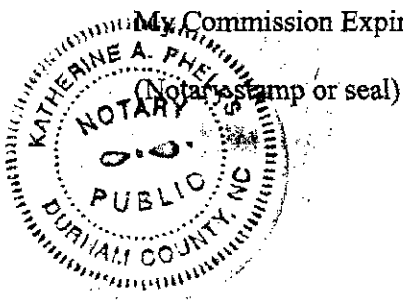
STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, Katherine A. Phelps, a Notary Public of the County of Durham State of North Carolina, do hereby certify that Alex Mitchell personally came before me this day and acknowledged that he is President of Alex Mitchell Construction, Inc., a North Carolina corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its President.

Witness my hand and official seal this the 20<sup>th</sup> day of January, 2003.

[Signature]  
Notary Public

My Commission Expires: 5-1-07



BOOK 991 PAGE 353

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be signed in its corporate name by its duly authorized officer, by authority of its Board of Directors, the day and year first above written.

CAPITAL BANK,  
a North Carolina banking corporation

By: Bryan E. Roberson  
Vice President

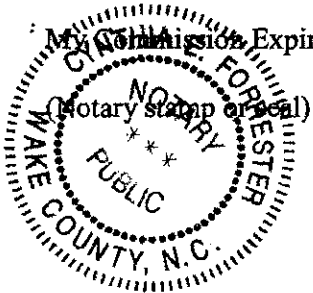
STATE OF NORTH CAROLINA  
COUNTY OF Wake

I, Cynthia E Forrester, a Notary Public of the County of Wake, State of North Carolina, do hereby certify that Bryan E Roberson personally came before me this day and acknowledged that ~~he~~ she is Vice President of Capital Bank, a North Carolina banking corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its Vice President.

Witness my hand and official seal this the 22 day of January, 2003.

Cynthia E. Forrester  
Notary Public

My Commission Expires: 6/9/06



BOOK 991 PAGE 354

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be signed in its corporate name by its duly authorized officer, by authority of its Board of Directors, the day and year first above written.

FIDELITY BANK,  
a North Carolina banking corporation

By: David E. Payne  
E.V. President

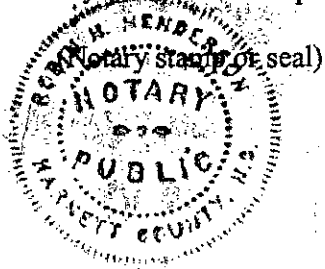
STATE OF NORTH CAROLINA  
COUNTY OF Harnett

I, Rubin H. Henderson, a Notary Public of the County of Harnett, State of North Carolina, do hereby certify that David E. Payne personally came before me this day and acknowledged that he/she is ~~Exec. Vice~~ President of Fidelity Bank, a North Carolina banking corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its ~~Exec. Vice~~ President.

Witness my hand and official seal this the 22<sup>nd</sup> day of January, 2003.

Rubin H. Henderson  
Notary Public

My Commission Expires: 2-07-14-2006



BOOK 991 PAGE 355

IN WITNESS WHEREOF, the undersigned BB&T Trustee has executed this Declaration as of the day and year first above written.

Earl W. Tye  
EARL W. TYE

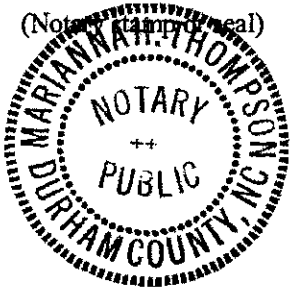
STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, Marianne H. Thompson, a Notary Public of Durham County,  
do hereby certify that Earl W. Tye personally came before me this day and  
acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this 21<sup>st</sup> day of January, 2003.

Marianne H. Thompson  
Notary Public

My commission expires:  
5-8-2004



BOOK 991 PAGE 356

IN WITNESS WHEREOF, the undersigned Carolina Builders Trustee has executed this Declaration as of the day and year first above written.

Charles H. Sedberry, Trustee  
CHARLES H. SEDBERRY

STATE OF NORTH CAROLINA  
COUNTY OF Wake

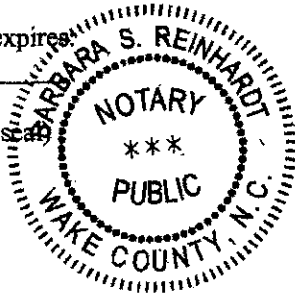
I, Barbara S. Reinhardt, a Notary Public of Wake County, North Carolina, do hereby certify that Charles H. Sedberry, <sup>Trustee</sup> personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this 22nd day of January, 2003.

Barbara S. Reinhardt  
Notary Public

My commission expires 4-29-03

(Notary stamp or seal)



BOOK 991 PAGE 357

IN WITNESS WHEREOF, the undersigned Capital Trustee has executed this Declaration as of the day and year first above written.

Franklin G. Shell  
FRANKLIN G. SHELL

STATE OF NORTH CAROLINA  
COUNTY OF Wake

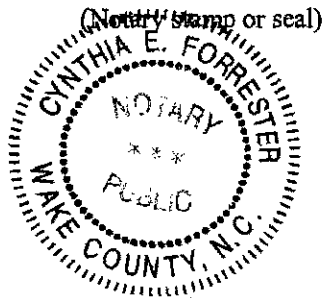
I, Cynthia E. Forrester, a Notary Public of Wake County, North Carolina, do hereby certify that Franklin G. Shell personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this 22 day of January, 2003.

Cynthia E. Forrester  
Notary Public

My commission expires:

6/9/06



BOOK 991 PAGE 358

IN WITNESS WHEREOF, the undersigned Fidelity Trustee has executed this Declaration as of the day and year first above written.

*Haywood A. Lane, Jr.*  
HAYWOOD A. LANE, JR.

STATE OF NORTH CAROLINA  
COUNTY OF Harnett

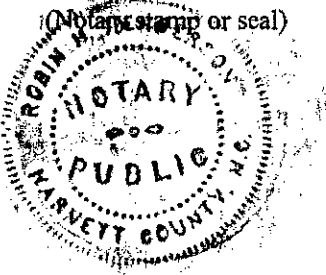
I, Robin H. Henderson, a Notary Public of Harnett County, North Carolina, do hereby certify that Haywood A. Lane, Jr. personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this 22 day of January, 2003.

*Robin Henderson*  
Notary Public

My commission expires:

SEP 11, 2006



BOOK 991 PAGE 359

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the day and year first above written.

Judith M. Hobbs  
JUDITH M. HOBBS

Joan P. Morris  
JOAN P. MORRIS

STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, John Foy Moss II, a Notary Public of Durham County, North Carolina, do hereby certify that Judith M. Hobbs personally came before me this day and acknowledged the due execution of the foregoing instrument.

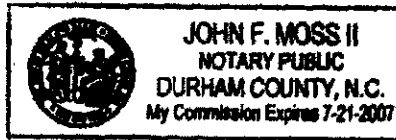
Witness my hand and notarial seal, this 20<sup>th</sup> day of January, 2003.

John F. Moss II  
Notary Public

My commission expires:

7/21/2007

(Notary stamp or seal)



STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, John Foy Moss II, a Notary Public of Durham County, North Carolina, do hereby certify that Joan P. Morris personally came before me this day and acknowledged the due execution of the foregoing instrument.

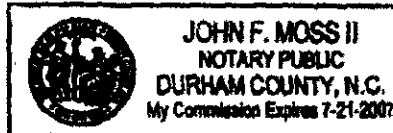
Witness my hand and notarial seal, this 20<sup>th</sup> day of January, 2003.

John F. Moss II  
Notary Public

My commission expires:

07/21/2007

(Notary stamp or seal)



BOOK 991 PAGE 360

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the day and year first above written.

*Michael W. Smith*  
MICHAEL W. SMITH

*Eleanor M. Smith*  
ELEANOR M. SMITH

ARIZONA

STATE OF ~~NORTH CAROLINA~~  
COUNTY OF MARICOPA

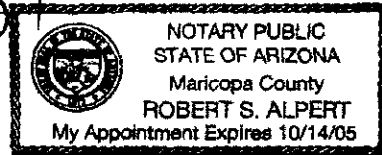
I, ROBERT S. ALPERT, a Notary Public of MARICOPA County, ARIZONA, do hereby certify that Michael W. Smith personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this 24<sup>th</sup> day of JAN, 2003.

*Robert S. Alpert*  
Notary Public

My commission expires:

\_\_\_\_\_



(Notary stamp or seal)

STATE OF ~~NORTH CAROLINA~~ ARIZONA  
COUNTY OF MARICOPA

I, ROBERT S. ALPERT, a Notary Public of MARICOPA County, ARIZONA, do hereby certify that Eleanor M. Smith personally came before me this day and acknowledged the due execution of the foregoing instrument.

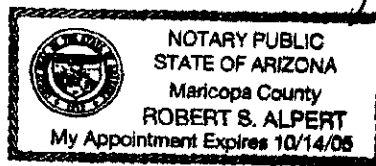
Witness my hand and notarial seal, this 24<sup>th</sup> day of JANUARY, 2003.

*Robert S. Alpert*  
Notary Public

My commission expires:

\_\_\_\_\_

(Notary stamp or seal)



BOOK 991 PAGE 361

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the day and year first above written.

John Allen Lossing  
JOHN LOSSING  
Imelda Lossing  
IMELDA LOSSING

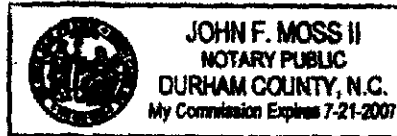
STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, John Foy Moss I, a Notary Public of Durham County, North Carolina, do hereby certify that John Lossing personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this 20<sup>th</sup> day of January, 2003.

J.F. Moss II  
Notary Public

My commission expires:  
07/21/2007



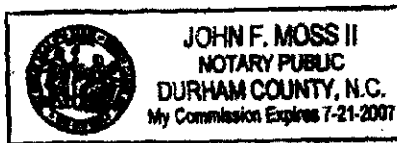
(Notary stamp or seal)  
STATE OF NORTH CAROLINA  
COUNTY OF Durham

I, John Foy Moss II, a Notary Public of Durham County, North Carolina, do hereby certify that Imelda Lossing personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this 20<sup>th</sup> day of January, 2003.

J.F. Moss II  
Notary Public

My commission expires:  
07/21/2007



(Notary stamp or seal)

BOOK 991 PAGE 362

**EXHIBIT A**

Plat 2001-499 prepared by Kenneth Close, Inc and recorded in the Chatham County Register of Deeds Office on December 31, 2001.

**BOOK 991 PAGE 363**

**EXHIBIT B**

Lots 47, 49, 50, 51 and 60 as shown on plat 2001-499 prepared by Kenneth Close, Inc. and recorded in the Chatham County Register of Deeds Office on December 31, 2001.

## BOOK 991 PAGE 364

## EXHIBIT C

Beginning at a point on the western right of way of NC Highway 751 (70' Public R/W), said point being North 33°33'17" West 3,216.86 feet from NCGS survey monument "LUCAS", said monument having NC grid coordinates (NAD 83) of N=771,088.494, E=2,016,390.085, said point also being the centerline of Colvard Farms Road (60' Private Road), as shown on a plat entitled "Final Plat of Colvard Farms Road Private Road", by Kenneth Close, Inc. dated 5-30-02, thence from said Beginning point with said centerline of Colvard Farms Road (60' Private Road) South 57°02'06" West 67.35 feet to a point, thence along a curve to the left having a radius of 300.00 feet, an arc length of 329.22 feet, and a chord bearing and distance of South 25°35'47" West 312.95 feet to a point, thence South 05°46'23" East 259.88 feet to a point, thence along a curve to the right having a radius of 377.87 feet, an arc length of 93.00 feet, and a chord bearing and distance of North 01°16'39" East 92.77 feet to a point, thence along a curve to the right having a radius of 517.73 feet, an arc length of 107.64 feet, and a chord bearing and distance of North 14°17'05" East 107.45 feet to a point, thence South 20°14'28" West 916.01 feet to a point, thence along a curve to the right having a radius of 1,494.48 feet, an arc length of 360.52 feet, and a chord bearing and distance of North 27°09'07" East 359.65 feet to a point, thence along a curve to the left having a radius of 450.00 feet, an arc length of 231.92 feet, and a chord bearing and distance of South 19°17'54" West 229.36 feet to a point, thence South 04°32'01" West 411.69 feet to a point, thence along a curve to the right having a radius of 650.00 feet, an arc length of 267.33 feet, and a chord bearing and distance of South 16°18'58" West 265.45 feet to a point, thence South 28°05'55" West 52.43 feet to a point, thence along a curve to the right having a radius of 640.00 feet, an arc length of 518.25 feet, and a chord bearing and distance of South 51°17'48" West 504.21 feet to a point, thence South 74°29'42" West 596.61 feet to a point, thence along a curve to the left having a radius of 400.00 feet, an arc length of 492.41 feet, and a chord bearing and distance of South 39°13'44" West 461.90 feet to a point on the Durham/Chatham County Line.

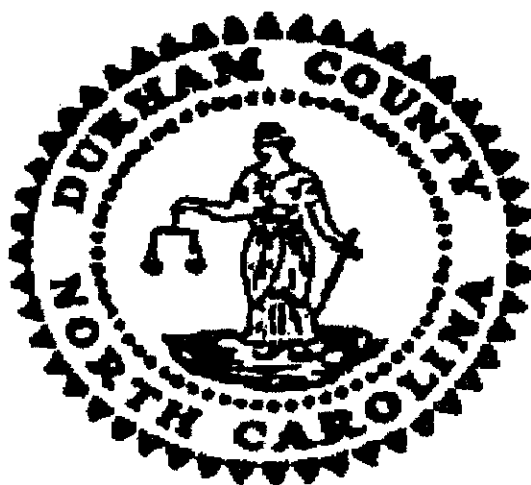
Beginning at a point, said point being South 75°14'10" West 4,055.25 feet from NCGS monument "LUCAS", said monument having NC grid coordinates (NAD 83) of N=771,088.494, E=2,016,390.085, said point also being the centerline intersection of Colvard Farms Road (60' Private Road) and the Durham/Chatham County Line, thence from said Beginning point with said centerline of Colvard Farms Road (60' Private Road) along a curve to the left having a radius of 400.00 feet, an arc length of 142.65 feet, and a chord bearing and distance of South 06°15'13" East 141.90 feet to a point, thence along a curve to the right having a radius of 400.00 feet, an arc length of 501.37 feet, and a chord bearing and distance of South 19°26'16" West 469.19 feet to a point, thence South 55°20'44" West 348.34 feet to a point, thence along a curve to the left having a radius of 493.57 feet, an arc length of 267.21 feet, and a chord bearing and distance of South 39°50'10" West 263.96 feet to a point, thence South 24°19'37" West 115.17 feet to a point, thence along a curve to the right having a radius of 450.00 feet, an arc length of 215.75 feet, and a chord bearing and distance of South 38°03'43" West 213.69 feet to a point.

## NORTH CAROLINA, CHATHAM COUNTY

The foregoing Certificates of Katherine A. Phelps, Marianna H. Thompson, Betty Jo Watkins, Cynthia E. Forrester, Robin H. Henderson, Barbara S. Reinhardt, John F. Moss, II, and Robert S. Alpert, Notaries Public are certified to be correct. This instrument was presented for registration at 11:48 a.m., on January 27, 2003 and recorded in Book 991 Page 311.

REBA G. THOMAS  
REGISTER OF DEEDS  
FOR CHATHAM COUNTY

By *Verona Ellis*  
Assistant - Register of Deeds



WILLIE L. COVINGTON  
REGISTER OF DEEDS , DURHAM COUNTY  
DURHAM COUNTY COURTHOUSE  
200 E. MAIN STREET  
DURHAM, NC 27701

\*\*\*\*\*

Filed For Registration: 02/27/2003 09:25:24 AM  
Book: RE 3787 Page: 370-424  
Document No.: 2003012865  
AMD 55 PGS \$173.00

Recorder: CYNTHIA Y FRAZIER

\*\*\*\*\*

State of North Carolina, County of Durham

The foregoing certificate of KATHERINE A PHELPS , MARIANNA H THOMPSON , ROBIN H HENDERSON ,  
BETTY JO WATKINS , CYNTHIA E FORRESTER , BARBARA S REINHARDT , JOHN F MOSS II , ROBERT S  
ALPERT Notaries are certified to be correct. This 27TH of February 2003

WILLIE L. COVINGTON, REGISTER OF DEEDS  
By: *Shelley G. Galt*  
Deputy/Assistant Register of Deeds

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2003012865