

Prepared by & Return to:

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STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

**DECLARATION OF TERMS, CONDITIONS,
RESTRICTIONS AND PROTECTIVE
COVENANTS FOR CANE CREEK MEADOWS**

THIS DECLARATION OF TERMS, CONDITIONS, RESTRICTIONS AND PROTECTIVE COVENANTS FOR CANE CREEK MEADOWS made and entered into this the ____ day of _____, 2011 by and between **WILLIAM B. TAYLOR**, (hereinafter referred to as the "Declarant"), and **ALL FUTURE OWNERS OF TRACTS IN CANE CREEK MEADOWS**, as hereinafter described and as redefined and amended in the future to include additional phases of Tracts, (hereinafter collectively referred to as the "Owners" or individually as an "Owner").

W I T N E S S E T H :

WHEREAS, Declarant is the owner of all that tract or parcel of land (hereinafter referred to as "the Property") as shown on that certain plat entitled "CANE CREEK MEADOWS" recorded in the Office of the Register of Deeds for Buncombe County, North Carolina in Plat Book ____ at Page ____ (hereinafter referred to as "the Plat"), reference to which is hereby made for a more particular description of said Property; and

WHEREAS, the Property is, at the option of Declarant, to be developed in phases or sections and divided into approximately four (4) residential building tracts (hereinafter referred to as the "Tracts" or individually as a "Tract"), the entire development to be known as "CANE CREEK MEADOWS" (hereinafter referred to as the "Subdivision"), and the Declarant reserves the right to add additional tracts or parcels of land to the development and to subject such additional tracts or parcels to the covenants and restrictions herein contained and include them within the Subdivision, which additions to the Property will increase the number of Tracts to be included within the Subdivision; and

WHEREAS, Declarant desires to subject the Property as shown on the Plat to the covenants and restrictions herein contained.

RESTRICTIVE AGREEMENT:

NOW, THEREFORE, Declarant hereby declares that all of the real property described on the Plat shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property shown on the Plat and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE ONE
ARCHITECTURAL CONTROL

1. APPROVAL OF PLANS AND SPECIFICATIONS. No building, fence, wall, deck, mailbox, driveway, or other structure shall be commenced, erected or maintained within Cane Creek Meadows, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications shall have been submitted and approved in writing by the Declarant or the Declarant's successor in interest.

Documents submitted to the Declarant shall include a site plan showing the location of all planned improvements, driveways, walks and parking areas, where applicable, and the relation of the location of such improvements to the Tract boundary lines as shown on the Plat. The documents submitted shall also name the licensed general contractor who shall be responsible for building of the dwelling and complying with this Article. Plans for the dwellings shall show front, side and rear elevations and shall include the kind, material and basic exterior finishes and colors to be used in the construction of such dwelling. The Declarant shall have the right to enforce compliance with this Declaration.

In the event the Declarant fails to approve or disapprove such submission of plans and specifications and site plan within thirty (30) days after said plans and specifications have been submitted to him, approval will not be required, and this Article will be deemed to have been fully complied with.

The Declarant shall have the right to charge a reasonable fee for receiving each application for approval of plans and specifications in an amount not to exceed Fifty and no/100 Dollars (\$50.00). Upon giving approval to such plans and specifications, the Owner shall be obligated to begin construction and complete the same in conformity with such plans as have been previously approved by the Declarant, and the Declarant shall be entitled to stop, through injunction or other legal means, any construction which is in violation of these restrictions.

2. ARCHITECTURAL STANDARDS. In addition to those general rules of the Declarant promulgated pursuant to this Article, construction of improvements on any Tract shall conform to the following standards: All dwellings shall (1) be constructed pursuant to the North Carolina Building Code by duly licensed building contractors; (2) be constructed with framing

assembled on-site; and (3) not utilize modular wall sections or other off-site construction of major structural portions of the dwelling, with the exception of roof and floor trusses.

ARTICLE TWO PROTECTIVE COVENANTS

1. All Tracts shall be used, improved and devoted exclusively to residential and agricultural use. Nothing herein shall be deemed to prevent the Owner of any Tract from leasing a Tract, subject to all provisions of this Declaration. No trade or business shall be carried on upon any Tract, but this restriction shall not prohibit a home or agricultural occupation which does not unreasonably increase traffic or cause any noxious or offensive activity within Cane Creek Meadows.

2. If any Owner shall violate, or attempt to violate, any of the covenants and restrictions herein, it shall be lawful for any other Owner to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions, and to either enjoin such breach and/or to recover damages for such violation, including reasonable attorney's fees incurred in prosecuting said action.

3. Invalidation of any of these covenants by judgment or Court shall in no way affect any of the other provisions which shall remain in full force and effect.

4. No owner shall erect, license or suffer to be erected, any commercial, business, or trade venture, manufacturing establishment, factory, apartment house, multi-unit dwelling or house or building to be used for a sanatorium or hospital of any kind, or at any time, use or suffer to be used, any house or building erected thereon for any such purpose.

5. No trailer, mobile home, modular home, motor home, camper truck, travel trailer or other vehicle or any tent, garage, shack, basement, barn, or other outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted. No guest house, garage, carport, or other building, except as approved by Declarant, shall be constructed on any Tract until after construction of the dwelling home on the same Tract is completed or simultaneously therewith.

6. No fence shall be erected on any Tract until the size, location and materials thereof are approved by Declarant. Barbed wire, chicken wire or any similar fencing shall not be permitted on any Tract. Declarant will, at his initial expense, construct and erect fencing of his design with materials of Declarant's choosing at locations to be determined in Declarant's sole discretion. The Owners of any Tracts on which such fencing is located shall be obligated to repair and maintain such fencing as is located on their Tract at such time and in such manner as is directed by Declarant. In case of violation of this covenants, Declarant may, after written notice to the Owners, perform the repair, maintenance or painting of the fencing on any Tract and assess the Owner of such Tract the costs incurred, which assessment shall constitute a lien against the Tract in the same fashion as other assessments owed by the Owners of Tracts as set forth herein.

7. Hunting of wildlife shall not be permitted within the boundaries of the Subdivision.

8. Firearms, explosives and/or arrows shall not be shot or discharged within the Subdivision.

9. No noisy, noxious or offensive activities shall be conducted upon any Tract, nor shall anything be done thereon which may become an annoyance or nuisance to any Owner(s) within Cane Creek Meadows.

10. Noisy vehicles of any kind, including but not limited to unmuffled trail bikes, all terrain vehicles and off-road motorcycles, shall not be used or operated within the Subdivision.

11. No permanent sign of any kind, including but not limited to billboard or outdoor advertising, shall be constructed, erected, used or placed on any Tract other than one professional quality sign of not more than four (4) square feet in area, advertising such Tracts, or improvement thereon, for sale, lease or rent. This restriction shall not apply to Declarant.

12. Each Owner shall comply with all applicable codes and ordinances and shall meet the minimum standards required by law.

13. The Owner of any Tract shall, by acceptance of a deed for a Tract, be obligated to provide adequate erosion control measures as a part of the construction process in order to minimize siltation or erosion of areas outside the Owner's Tract. It shall be the duty of such Owner to design and execute such control measures so as to avoid damage to adjoining Tracts or properties. If such Owner has not provided adequate control measures which comply with applicable erosion control regulations, or if the Owner is in violation of this Section, Declarant may, after five (5) days written notice to such Owner, perform such measures, in which case the Owner agrees to reimburse Declarant within thirty (30) days the cost of such control measures performed by the Declarant. During and after completion of construction, all drainage channels shall remain open, and no diversion of natural drainage shall be allowed where such diversion will affect any adjacent Tract.

14. All exposed foundation walls and chimneys shall be covered with wall covering materials as required by Declarant.

15. Except for the private roads constructed by the Declarant and present easements of public record within the Subdivision, no Owner, other than the Declarant, shall grant, convey, or lay out any right of way, cartway, street, alley, roadway, easement or license to any area outside the boundaries of the Subdivision, except that the Declarant retains the right to add additional property to the Subdivision. In addition thereto, Declarant retains the exclusive right to reserve, grant or convey any easement and right of way across any property or Tract owned by Declarant located within the Subdivision or any area outside the boundaries of the Subdivision. Declarant shall have and retain the continuing right to the use of the roads constructed by the Declarant within the Subdivision for access to and from adjacent properties.

16. No outside radio or television antennae or satellite dishes shall be erected on any Tract, except as approved in writing by the Declarant. Satellite dishes of no more than twenty-four (24) inches in diameter will be allowed within Cane Creek Meadows, subject to approval by the Declarant of the placement of the same on any Tract.

17. All refuse, rubbish, trash, garbage or waste shall be kept, disposed of or removed in a sanitary manner. All household refuse and rubbish, trash, garbage or waste shall be kept in closed containers, shielded from view, until collected by the proper public authority for such disposal. Refuse, rubbish, trash, garbage, or waste shall not be permitted to remain exposed on a Tract.

18. Unless licensed and maintained in an operable condition, no vehicle, whether self-propelled or not, shall be permitted to remain on any Tract unless it is enclosed within a building or garage. No vehicle, whether self-propelled or not, shall be parked upon any Tract in such a manner so as to constitute a nuisance to other Owners. The making of vehicle repairs outside of an enclosed garage and/or leaving an inoperable vehicle exposed on a Tract shall constitute a nuisance.

19. Subject to limitations as may from time to time be set by the Declarant, generally recognized house or yard pets in reasonable numbers may be kept and maintained at an Owner's residence, provided such animals are not kept and maintained for commercial purposes. All pets must be kept under the control of their Owner when on the outside of the Owner's Tract and must not become a nuisance to other Owners at any time. Horses and livestock may be kept or maintained within the Subdivision with the prior written approval of the Declarant, and subject to rules and regulations that Declarant may from time to time propound, in such numbers as do not result in overgrazing of the pastureland within the Subdivision.

20. All improvements shall be maintained in such a manner that they do not become (a) unsightly, (b) in disrepair, (c) unsanitary, or (d) a hazard. No noxious, obnoxious, noisy, unsightly, or otherwise offensive objects or activities, specifically including, but not limited to, vehicle repairs outside of an enclosed garage, dogs barking on a regular basis audible on other Tracts, other noise-making animals or pets, shall be permitted in the Subdivision; nor shall any condition be permitted to remain that is an unreasonable annoyance or nuisance to other Owners. Further, no substance, thing, or material shall be kept upon any Tract that will emit foul or obnoxious odors or will cause any noise that will or might reasonably disturb the reasonable peace, quiet and comfort.

21. The Declarant reserves the right to enter upon any Tract for the purpose of abating a nuisance or breach thereof.

22. Utility and drainage easements affecting all Tracts are reserved five (5) feet in width along interior Tract lines and over the front and rear ten (10) feet of each Tract for installation and maintenance of utilities and drainage facilities. Neither Declarant, nor any utility company using the easements herein referred to, shall be liable for any damage done by them or their assigns, agents, employees or servants, to shrubbery, trees or flowers, or to the property of the Owner situated on the land covered by said easements.

23. The Owners, by acceptance of a deed for said Tracts shall take title to the Tracts subject to rights of way and easements forty-five feet (45') in width for the purposes of ingress, regress and egress in favor of and benefiting certain Tracts within the Subdivision, said easements and rights of way being more particularly described as that 45' right of way entitled "Sweetgrass Lane" as shown on the Plat. By the acceptance of a deed, the Owner shall take title subject to this obligation to contribute on an equal pro rata basis toward the proper maintenance of the roadways located within said 45' right of way.

24. No trees shall be cut, topped, pruned or otherwise altered from their natural state other than those removed to clear the site necessary to construct an approved single family residence (not more than twenty (20) feet from any side of a house and not more than ten (10) feet from the side of the driveway). Notwithstanding the foregoing, Declarant shall have the absolute discretion to allow such additional cutting, topping, pruning, etc., as he deems to be either in the best interest of the Subdivision or to not be injurious to it. Any reservation of specific pruning and topping rights must be reserved by Declarant in writing and signed by Declarant. Trees within the Subdivision must be protected from damage or destruction by pets or livestock kept or maintained by any Owner.

25. Each Owner shall provide off street space for parking the number of vehicles regularly owned or used by Owner and other Tract occupiers, but not less than space for parking at least two automobiles on the Tract prior to the occupancy of any residence. Parking on the streets of the Subdivision will not be permitted except during those infrequent times when the normal parking facilities on the Tract will not accommodate all the vehicles owned by persons visiting said Owner.

26. Electric power, natural gas, telephone and any cable television services to all structures on all Tracts may be by underground cable or wires from the utility company's main underground cables or lines to said structures. The Declarant reserves the right to subject the Subdivision to a contract with Progress Energy, PSNC Energy, and any other utility companies servicing properties within the Subdivision for the installation of underground electric, telephone, television cable or natural gas piping, cables and/or the installation of street lighting, either or both of which may require an initial assessment and/or a continuing monthly payment to said electric utility companies by the Owner of each Tract. All Owners shall promptly pay such assessments and monthly charges.

27. The pro rata share of roadway maintenance and upkeep chargeable to each Owner shall serve as a lien against said Owner's Tract from and after the recording of same in the Office of the Clerk of Superior Court of Buncombe County North Carolina. The collection of said share shall be as set forth in the General Statutes of North Carolina for the collection of same and foreclosure of other liens on real property or as otherwise allowed by law. Notwithstanding the foregoing, the lien of said assessments shall at all times be subordinate to the lien established by any deed of trust in favor of a bank, savings and loan association, insurance company or other like lending institution or in favor of the Seller of a Tract when such deed of trust is a purchase money deed of trust as the term is understood in North Carolina.

28. Grass and weeds (including all growth under and around fence lines) are to be cut down on all Tracts to a height not to exceed ten (10) inches in order to prevent an unsightly and unsanitary condition. This obligation shall apply to the area of the Tract shown on the Plat and that area within the right of way of the roadway adjoining such Tract, which obligation is that of the Owner of the Tract in question and it is to be done at his expense. In case of violation of this covenant, Declarant may, after written notice to the Owner of such Tract which fails to comply with this covenant, perform necessary mowing or clearing of such Tract and assess the Owner thereof the cost incurred, which assessment shall constitute a lien against the Tract.

29. No dwelling or other improvements of any kind shall be located on any Tract within a twenty-five foot (25') setback of Cane Creek, said "setbacks" being shown and described on the Plat; however, Declarant reserves the exclusive right, in his sole discretion, to waive this restriction or grant a variance for any Owner, including the execution of any instrument necessary to effectuate such waiver or variance of said restriction.

30. Declarant shall have at all times hereafter the right of first refusal to repurchase any Tract which is not improved with a residence. Declarant shall respond to a written offer of sale within fifteen (15) days of his receipt thereof. No conveyance of a Tract without a residence located thereon by someone other than Declarant shall be valid as against Declarant unless the deed for the same is accompanied by a written document in recordable form executed by Declarant waiving the right of first refusal.

ARTICLE THREE **GENERAL PROVISIONS**

1. The covenants and restrictions contained in this Declaration shall run with and bind the properties which are made subject hereto for a period of twenty (20) years from the date this Declaration is recorded in the Office of the Register of Deeds for Buncombe County, North Carolina, after which time, such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each.

2. This Declaration may be amended by the Declarant in Declarant's sole discretion, which amendment can be made without the joinder of Owners.

3. The Declarant does hereby reserve the following "special declarant rights":

- A. The right to enter the Tracts shown on the Plat for the purpose of construction and maintenance of improvements indicated on the Plat;
- B. The right to maintain, while he owns Tracts he holds for sale, a sales office and model homes, together with the right to erect signs advertising Tracts for sale;
- C. The right to make full use of easements or rights of way over and upon the Common Elements for the purpose of making improvements within Cane Creek Meadows.

4. "Declarant" as used herein shall include Declarant's successors in interest, heirs and assigns, except as hereinafter limited. Declarant's rights hereunder shall remain solely vested

in Declarant until such time as Declarant specifically conveys his rights hereunder. No reference in this document to the successors in interests or assigns of Declarant shall be deemed to include mere Grantees of specific Tracts within the Subdivision in deeds of conveyance from Declarant.

5. This Declaration is made and shall be construed and controlled by and under the laws of the State of North Carolina.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed, who has signed and sealed this instrument, this the ___ day of _____, 2011.

DECLARANT:

_____(SEAL)
William B. Taylor

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, a Notary Public of the County and State aforesaid, certify that William B. Taylor personally appeared before me this day and (I have personal knowledge of his identity) (I have seen satisfactory evidence of his identity by a current state identification with their photograph in the form of a _____); and acknowledged his voluntary execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the _____ day of _____, 2011.

Notary Public
Printed name: _____

My Commission Expires: _____