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Nash County North Carolina
Barbara W. Sasser Register of Deeds

BK 2376 PG 640-649

DECLARATION OF PROTECTIVE COVENANTS
RESTRICTIONS AND CONDITIONS FOR
CYPRESS LANDING SUBDIVISION

NORTH CAROLINA

NASH COUNTY

Carolina Land Developing, LLC, does hereby covenant and agree to and with all persons, firms and corporations hereafter acquiring any of the real estate hereinafter described that the said real estate is hereby subjected to the restrictions hereinafter set forth as to the use and occupancy thereof by whomsoever owned. The real estate which is hereby subjected to the restrictions hereinafter set forth is described as follows:

The residential building lots as shown on the plat of Cypress Landing Subdivision, recorded in Map Book 35, Page 167, Nash County Registry.

The above-described lots are hereby subjected to the following restrictions.

ARTICLE I

Section 1. Association shall mean and refer to Cypress Landing Owners Association, its successors and assigns.

Section 2. Cypress Landing Subdivision shall mean and refer to that certain real property described on a plat of Cypress Landing Subdivision, recorded in Map Book 35, Page 167, Nash County Registry.

Section 3. Lot shall mean and refer to all residential building lots as shown upon the recorded subdivision plat of Cypress Landing Subdivision either as it currently exists or as it may later appear when additional land is developed.

Section 4. Member shall mean and refer to every person or entity who holds a membership in the Association.

Section 5. Developer and Declarant shall mean and refer to Carolina Land Developing, LLC, a North Carolina limited liability company, with its principal office in Nash County, North Carolina.

Section 6. Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot, but excluding those having such interest merely as security for the performance of an obligation. Each owner shall automatically be a member of the Association.

Section 7. Declaration shall mean and refer to this Declaration of Protective Covenants, Restrictions and Conditions for Cypress Landing Subdivision.

Section 8. Common Areas shall mean and refer to the entrance and identification sign to the subdivision together with the medians within the street rights-of-way, if any, and such other real property, if any, within the Additional Land which Developer

denotes as Common Area in any Amendment to this Declaration subjecting any portion of the Additional Land to the provisions of this Declaration. The responsibility for the maintenance and repair of these Common Areas shall be the responsibility of the Association, and to the extent necessary to perform its maintenance and repair obligations the Association is granted an easement across the Lots. In performing the repair and maintenance obligations, the Association shall exercise its best efforts to leave the Lots undisturbed and repair any damage to the Lots caused or resulting from the exercise of its rights hereunder. Common Area shall further mean and include any and all other real or personal property owned, leased or maintained by the Association for the common use and enjoyment of the Owners.

Section 9. Additional Land shall mean and refer to the real estate not subjected herein to the provisions of the Declaration described in a deed to Declarant recorded in Book 2347, Page 51, Nash County Registry.

Section 10. Front Yard shall mean and refer to the area of a Lot between the street, whether front or side, right-of-way and the fence erected by Developer at or near the rear of the dwelling constructed on the Lot.

ARTICLE II
MEMBERSHIP IN ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall be a member of the Association. The foregoing is not intended to include any persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. As evidence of each Owner's membership, each Owner shall deliver to the office of the Association a photocopy of the page(s) of the deed(s) which contains the name of the Member and the Lot(s) owned by such Member.

Section 2. Suspension of Membership. During any period in which a Member shall be in default in the payment of any assessment levied by the Association which constitutes a lien upon the Member's Lot(s) the voting rights of such Member may be suspended by the Board of Directors until such assessment has been paid.

Section 3. Voting Rights. All Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest in any Lot, all such persons shall be Members. The one vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot and no fractional vote may be cast with respect to any lot.

ARTICLE III
ASSOCIATION MAINTENANCE

The Association, acting through its Board of Directors, after the issuance of a certificate of occupancy for a dwelling on a Lot, shall maintain and pay the cost of utilities, both water and electricity, to operate the lawn irrigation systems located upon each Lot, shall control the schedule and time of irrigation, shall fertilize the lawns on each Lot, front and back, shall provide for the cutting of lawns on the Front Yard and side of each Lot, and repainting of the exterior trim of each residential dwelling located on a Lot, and shall at all times provide for the maintenance and repair of the Common Areas. Provided, however, any repair or maintenance which is required or performed due to the negligent or intentional acts of an Owner will be assessed to such Owner and be his sole responsibility to pay. If any such costs are not paid within thirty (30) days the Association may file a lien against the Lot and/or proceed to collect from the Owner.

ARTICLE IV
ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Owner of a Lot by acceptance of a deed therefor shall be deemed to covenant and agree to pay the Association annual assessments or charges. The assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due and shall not pass to his successors in title as a personal obligation unless expressly assumed, regardless of the fact it is a lien on the Lot.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of defraying the cost of the Association in performing its duties and exercising its authority as outlined in this Declaration, and its ByLaws, including, but not limited to, payment of premiums for liability insurance, taxes, if any, and maintenance and repair of the Common Area and any improvements thereon, cutting of grass in the Front Yard of a Lot and repainting the exterior trim of dwellings constructed on each Lot. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense incurred in the administration of the Association, or to the proper undertaking of all acts and duties imposed upon it or authorized by virtue of this Declaration and the ByLaws of the Association. As monies for any assessment are paid to the Association by any Owner, the same may be co-mingled with monies paid to the Association by other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto shall be held for the benefit of the Members, no Member shall have the right to assign, hypothecate, pledge or in any manner transfer his interest therein, except as an appurtenance to his Lot. When an Owner shall cease to be a Member by reason of his divestment of ownership of such Lot, by whatever means, the Association shall not be required to account to such Member for any share of the fund or assets of the Association, or which may have been paid to the Association by such Member, as all monies which any Member has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Association.

Section 3. Basis and Maximum of Annual Assessments. The initial annual assessment for each Lot shall not be in excess of One Thousand Two Hundred and No/100 Dollars (\$1,200.00) per Lot.

- (a) From and after December 31, 2007, the annual assessment may be increased effective January 1 of each year without a vote of the Membership, by a percentage which may not exceed the percentage increase reflected in the U. S. City Average, Consumer Price Index - United States and selected areas for urban wage earners and clerical workers, all items most recent index and percentage changes from selected dates (published by the U. S. Bureau of Labor Statistics, Washington, D.C.), or such other Index as may succeed the Consumer Price Index, for the Twelve month period ending the preceding September 1.
- (b) From and after December 31, 2007, the annual assessment may be increased above that established by the Consumer Price Index formula by an affirmative vote of the Members, whether voted in person or by proxy, at a meeting duly called for this purpose, written notice of which setting forth the purpose of the meeting, shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting.

- (c) In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not fix the annual assessment in an amount in excess of the same derived by application of the Consumer Price Index formula provided in Subsection (a) without the consent of Members required by Subsection (b) of this Section.
- (d) The Board of Directors may decrease the annual assessment from time to time if in its opinion such decrease is prudent.

Section 4. Quorum for Any Action Authorized Under Sections 2 and 3. At the first meeting called, as provided in Sections 2 and 3 hereof, the presence at the meeting of Members or of proxies entitled to cast one-tenth (1/10) of the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 3, and the required quorum at any such subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Uniform Rate. Annual assessments must be fixed at a uniform rate for all Lots and shall be collected annually or upon such other basis as the Board of Directors shall deem advisable. Provided, however, that assessments levied for the cost of reconstruction, maintenance, repair or replacement of improvements on a Lot due to the willful or negligent acts of a Lot Owner, his family, guests or invitees, or occasioned by a Lot Owner's failure to maintain his Lot and the improvements located thereon in a manner satisfactory to the Board of Directors shall be assessed against the Lot(s) benefitted by said assessment and shall be collected within ten (10) days following completion of said reconstruction, maintenance, repair or replacement.

Section 6. Date of Commencement of Annual Assessments Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance to an Owner by Developer. Provided, however, assessments on unimproved Lots conveyed by Developer shall not commence until the certificate of occupancy is issued by Nash County, North Carolina for the dwelling constructed upon the Lot, but in any event twelve (12) months following conveyance of the unimproved Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. The due date shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing, signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect on Non-Payment of Assessments: Remedies of the Association. Any assessments or portions thereof which are not paid when due shall be delinquent. If the assessment or portion is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of the delinquency at the rate of fifteen percent (15%) per annum, and the Association may (i) accelerate the due dates of all installments of assessments and declare the same due and payable, and (ii) bring an action at law against the Owner personally obligated to pay the assessment, and interest, costs, late payment charges and reasonable attorney's fees of any such action shall be added to the amount of such

assessment, and/or (iii) bring an action to foreclose the lien granted to the Association in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which the Association may at its option advance in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of fifteen percent (15%) per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire by whatever means, any interest in the ownership of any Lot, or who may be given or require a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Lot expressly subject to such lien rights, subject however to the Provisions of Section 9 below related to mortgage holders.

Section 8. Claim of Lien. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the Public Records of Nash County, North Carolina, which claim shall state the description of the Lot encumbered thereby, the name of the Owner, the amount due and the date when due. The claim of lien shall be recordable any time after delinquency and the lien shall continue in effect until all sums secured by said lien have been paid. The lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any mortgage or deed of trust duly recorded in the Nash County Registry on such Lot given by the Owner to secure an indebtedness to any bank, savings bank, savings and loan association, or any similar financial institutions. Sale or transfer of any Lot shall not affect the assessment lien.

ARTICLE V MISCELLANEOUS PROVISIONS

Section 1. No Lot shall be used except for residential purposes. No dwelling shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling not to exceed two and one-half stories in height, a private garage for not more than three cars, and outbuildings incidental to residential use. No signs, billboards, placards or devices shall be erected or placed upon the Lots, however, this prohibition shall not restrict an Owner from placing an ordinary name or address placard, the type of which is ordinarily used upon residential premises and shall not prohibit reasonable advertising by Developer, contractors, or Owners for purposes of development and sale or resale of Lots.

Section 2. No building, fence, mail box, mail box post, dwelling, or other structure shall be erected, placed or altered on any Lot until the construction or alteration plans and specifications, including the exterior color scheme and a plan showing the location of the structure, have been approved by the Architectural Control Committee (herein the "Committee") as to quality of workmanship and materials, harmony of external design and color with existing structures, and as to location with respect to topography and finished grade elevation. Mailboxes and post shall be selected and furnished by the Developer to be installed by Homeowner or Contractor. No fence or walls shall be erected, placed or altered on a Lot except to the rear of the house unless approved by the Architectural Control Committee as provided in this

section.

Section 3. The Architectural Control Committee is composed of Shawn M. Dwyer and Jennifer Dwyer, Rocky Mount, North Carolina ("Dwyer"). The Committee may designate a representative to act for it, and in the event of the death or resignation of said named person or persons, Developer may appoint one or more persons to take their place, and such successors shall have full authority to act. The appointment of such successor member shall be executed in writing and filed in the office of the Register of Deeds of Nash County. After Developer has conveyed all Lots in Cypress Landing, the Association shall have the authority to appoint the members of the Architectural Control Committee.

All communications addressed to the Committee shall be addressed to Shawn M. Dwyer, Carolina Land Developing, LLC, P. O. Box 8013, Rocky Mount, NC 27804, or such other address as shall be set forth in an instrument executed by the Committee recorded in the Office of the Register of Deeds of Nash County.

The Committee's approval or disapproval of plans submitted to it shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove the plans within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required.

Section 4. The Lots are subject to the zoning and subdivision ordinances and regulations of Nash County, North Carolina, and all dwellings constructed on a Lot shall comply with all such applicable ordinances and regulations.

Section 5. Easements for installation and maintenance of utilities and drainage and other easements are reserved as shown on the recorded plat of Cypress Landing Subdivision.

Section 6. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Owners.

Section 7. No structure of a temporary character, trailer, double-wide, modular home, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently.

Section 8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot other than household pets which may be kept provided that they are not kept, bred or maintained for any commercial purpose.

Section 9. No Lot shall be used or maintained as a dumping ground for rubbish or trash. Garbage and other waste shall be kept in sanitary containers and located at the rear of any dwelling located on the Lot. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 10. Street parking shall be limited to temporary visitors. No cars, trucks, campers, trailers, recreational vehicles or boats may be regularly parked upon the streets. All campers, trailers, boats, and any other recreational vehicles shall be kept inside a garage, storage building or in the fenced back yard and generally not visible from the streets. No vehicles shall be parked in the front yard except on the paved driveway nor shall any vehicle be displayed as being "for sale." All driveways and parking surfaces shall be covered in concrete.

Section 11. Except for maintenance provided by the Association each Owner shall maintain and repair the improvements on his Lot and keep his Lot free of tall grass, undergrowth, dead trees, trash and rubbish and properly maintained so as to present

a pleasing appearance, and shall further keep any garage door closed except when in use. In the event an Owner does not properly maintain his Lot or the improvements on his Lot as above provided, then in such event the Association may have the required work done, and the costs thus incurred shall be paid by the Owner.

Section 12. Pens, yards and houses for household pets, garbage and trash cans or receptacles, sports or play equipment, yard ornaments and outside above-ground areas for construction materials, coal, oil, wood, or other fuels shall be located to the rear of the dwelling located on the Lot and be screened from view or shielded by the use of shrubs, fences or other suitable screening material. Provided however, yard ornaments in the front yard may, in the sole discretion of the Architectural Control Committee, be allowed upon request by an Owner.

Section 13. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2037, on which date they shall automatically be extended for successive periods of ten (10) years unless these covenants are changed, amended, or removed in whole or in part by an instrument joined in by a majority of Owners and recorded in the Nash County Registry.

Section 14. In view of the possibility of change in economic, or other conditions and in order to facilitate the protection of property interests in Cypress Landing Subdivision and to preserve the character and atmosphere of the Subdivision, the Developer reserves the right to modify and amend the provisions of this Declaration; and the waiver, joinder, or consent of any adjacent property owner or any other property owner in Cypress Landing Subdivision shall not be required.

Section 15. There is also reserved to the Developer the right to waive any violation of the minimum building and set back lines without the consent of any adjacent property owner or any other property owner in Cypress Landing Subdivision shall not be required.

Section 16. Enforcement of these covenants may be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

Section 17. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

Section 18. Declarant reserves the right from time to time to subject to the provisions of the Declaration portions of the Additional Land by instrument or instruments duly recorded in the Nash County Registry.

Section 19. NC Real Property I, LLC, Trustee and First Carolina State Bank have joined in the execution of this instrument for the sole and limited purpose of subordinating to the provisions of this Agreement the lien of the deed of trust from Carolina Land Developing, LLC, recorded in Book 2347, Page 51, Nash County Registry.

Thomas W. King, Trustee and T. W. Nelson have joined in the execution of this instrument for the sole and limited purpose of subordinating to the provisions of this Agreement the liens of the deeds of trust from Carolina Land Developing, LLC recorded in Book 2358 at Pages 302 and 307, Nash County Registry.

Harold T. Keen, Trustee and KS Bank, Inc. have joined in the execution of this instrument for the sole and limited purpose of subordinating to the provisions of this Agreement the lien of the deed of trust from Sannes Construction Company recorded in Book 2361, Page 121, Nash County Registry.

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands in the manner required by law, this the 27th day of November, 2007.

CAROLINA LAND DEVELOPING, LLC

By: [Signature] (SEAL)
Shawn M. Dwyer, Member/Manager

NC REAL PROPERTY I, LLC, Trustee

By: [Signature] (SEAL)
Timothy N. Taylor, Member

FIRST CAROLINA STATE BANK

By: [Signature]
Timothy N. Taylor, President

[Signature] (SEAL)
Thomas W. King, Trustee

[Signature] (SEAL)
T. W. Nelson

[Signature] (SEAL)
Harold T. Keen, Trustee

KS BANK, INC.

By: [Signature]
Thomas L. Gathin, Senior Vice President

STATE OF NORTH CAROLINA

COUNTY OF NASH

I, Jo Ann High, a Notary Public of the County and State aforesaid, certify that Shawn M. Dwyer, Member/Manager of Carolina Land Developing, LLC, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this 27th day of November, 2007.

[Signature]
Jo Ann High, Notary Public of Nash County, North Carolina

My Commission Expires:

04/19/2012

(SEAL)



STATE OF NORTH CAROLINA

COUNTY OF NASH

I, Jo Ann High, a Notary Public of the County and State aforesaid, certify that T. W. Nelson personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this 30th day of November, 2007.

Jo Ann High
Jo Ann High, Notary Public of
Nash County, North Carolina

My Commission Expires:

04/19/2012

(SEAL)



STATE OF NORTH CAROLINA

COUNTY OF Johnston

I, Emily Rhodes, a Notary Public of the County and State aforesaid, certify that Harold T. Keen, Trustee, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

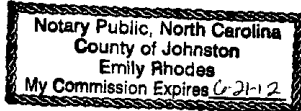
Witness my hand and official seal, this 27 day of November, 2007.

Emily Rhodes
Emily Rhodes, Notary Public of
Johnston County, North Carolina

My Commission Expires:

06-21-2012

(SEAL)



STATE OF NORTH CAROLINA

COUNTY OF Johnston

I, Emily Rhodes, a Notary Public of the County and State aforesaid, certify that Thomas L. Gattin personally came before me this day and acknowledged that he is the Sr. Vice President of KS Bank, Inc., a North Carolina Corporation, and that he as Sr. Vice President, being authorized to do so, executed the foregoing instrument on behalf of KS Bank, Inc.

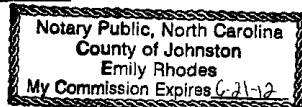
Witness my hand and official seal, this 27 day of November, 2007.

Emily Rhodes
Emily Rhodes, Notary Public of
Johnston County, North Carolina

My Commission Expires:

06-21-2012

(SEAL)



STATE OF NORTH CAROLINA

COUNTY OF NASH

I, Jo Ann high , a Notary Public of the County and State aforesaid, certify that Timothy N. Taylor, Member of NC Real Property I, LLC, Trustee, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this 30th day of November, 2007.

 Jo Ann High
 Jo Ann High , Notary Public of
 Nash County, North Carolina

My Commission Expires:

 04/19/2012

(SEAL)



STATE OF NORTH CAROLINA

COUNTY OF NASH

I, Jo Ann High , a Notary Public of the County and State aforesaid, certify that Timothy N. Taylor personally came before me this day and acknowledged that he is the President of First Carolina State Bank, a North Carolina Corporation, and that he as President, being authorized to do so, executed the foregoing instrument on behalf of First Carolina State Bank.

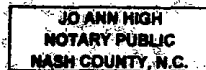
Witness my hand and official seal, this 30th day of November, 2007.

 Jo Ann High
 Jo Ann High , Notary Public of
 Nash County, North Carolina

My Commission Expires:

 04/19/2012

(SEAL)



STATE OF NORTH CAROLINA

COUNTY OF NASH

I, Jo Ann High , a Notary Public of the County and State aforesaid, certify that Thomas W. King, Trustee, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this 30th day of November, 2007.

 Jo Ann High
 Jo Ann High , Notary Public of
 Nash County, North Carolina

My Commission Expires:

 04/19/2012

(SEAL)



41.00
TWK