

Greenville County in Deed Book 2008 at page 679 on September 5, 2002 (hereinafter the "Original Restrictions"). Likewise in furtherance of the foregoing purposes, Declarant now desires to amend and replace the said Original Restrictions.

NOW, THEREFORE, Declarant hereby declares that all of the Property 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 and shall be binding on all parties having any right, title or interest in the said Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. The Original Restrictions are, accordingly, hereby amended, superceded and replaced.

ARTICLE I

DEFINITIONS

SECTION 1. "Association" shall mean and refer to the KILGORE FARMS PROPERTY OWNERS ASSOCIATION, INC., its successors and assigns. The Association shall be a nonprofit corporation formed under the laws of the State of South Carolina by or at the direction of Declarant and having such by-laws as may be appropriate to carry out the purposes of the Association consistent with the requirements of this First Amended Declaration. Until such time as the Association is formed, the Declarant shall carry out the functions of the Association as set forth in this First Amended Declaration.

SECTION 2. "Board of Directors" or "Board" of the Association shall be the appointed or elected body, as applicable, and otherwise having its normal meeting in accordance with the South Carolina Nonprofit Corporation Act.

SECTION 3. "(B)uilding" shall mean and include, but shall not be limited to, both the main portion of a structure built for permanent use and all projections or extensions thereof, including, but not limited to, garages, outside platforms, canopies, porches, decks and outbuildings.

SECTION 4. "By-laws" shall mean the by-laws of the Association as they now or may hereafter exist.

SECTION 5. "Common Area" shall mean all real property located within the Property owned or maintained or to be owned or maintained by the Association and specifically designated by Declarant as "Common Area," including but not limited to areas identified on any recorded plat of the Property as "Common Area" or as easements for the common benefit of the Owners, together with such facilities and improvements as may be constructed thereon, for the common use and enjoyment of the members of the Association. The initial Common Areas to be owned by the Association may be conveyed to the Association by Declarant at such time as it shall be determined by the Declarant, in the exercise of its sole discretion, that the Association is able to maintain them. The Common Area also shall be deemed to include such additional property as Declarant may from time to time designate by filing a declaration to such effect in the public records of Greenville County, South Carolina and, if appropriate, by conveying the same to the Association. Further, the Common Area shall include other real or personal property acquired by the Association in accordance with its By-laws if the same is designated as a part of the Common Area. Common Area may include any real property interests (including any easements) with facilities and improvements constructed thereon which is located within the Kilgore Farms subdivision and which benefits the Property as defined in Exhibit A.

SECTION 6. "(I)mprovement" shall mean any structure or construction of any kind that alters the physical appearance of a Lot or Common Area, including but not limited to, buildings, outbuildings, roads and driveways (other than those dedicated to public use), parking areas, fences, screening walls, retaining walls, loading areas, signs, utilities, lawns, landscaping and walkways located on Lots, together with any construction work or treatment done or applied to a Lot in connection therewith.

SECTION 7. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat or development plan of the Property with the exception of Common Area and defeated streets and roads.

SECTION 8. "Member" shall mean and refer to every person or entity who holds

membership with voting rights in the Association.

SECTION 9. "Occupant" shall mean any person or entity who occupies, or who has the right to occupy, all or a part of any Lot which is a part of the Property, whether such occupancy or right of occupancy is based on ownership, lease, license or easement.

SECTION 10. "Open Space" shall mean that certain portion of the Property identified as such on the recorded final plat of the Subdivision. The said Open Space is intended and shall be restricted for conservation purposes in accordance with the terms herein and shall not be subject to any future development or further subdivision of any kind or nature whatsoever.

SECTION 1.1. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, or any portion thereof, which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

ARTICLE II

PROPERTY RIGHTS

SECTION I. OWNER'S EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of ingress and egress, use and enjoyment in and to those portions of the Common Area owned by the Association, which easement shall be appurtenant to and shall pass with the title to every Lot, whether or not referred to in any deed conveying title to any Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights and the right of an Owner or Occupant to use Common Areas for any period during which any assessment against his Lot remains unpaid; and for a reasonable period of time for an infraction of this First Amended Declaration, the By-laws, or Association Rules and Regulations.

(b) the right of the Association to grant easements and rights of way across or beneath all or any part of the Common Area to any public agency, authority or utility.

(c) the right of the Association, in accordance with its Articles and By-laws, to borrow money for the purpose of improving the Common Area and to mortgage, pledge or otherwise hypothecate any or all of its real or personal property as security for any such money borrowed.

(d) the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Areas, to limit the number of guests of Lot Owners and tenants who may use the Common Areas, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner," his family, tenants, guests, and invitees.

SECTION 2. LEASES OF LOTS. Any permitted lease agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this First Amended Declaration, the Articles of Incorporation and By-laws, and Rules and Regulations of the Association and that any failure by the lessee to comply with the terms of such instruments shall be a default under the terms of the Lease. All leases of Lots shall be in writing, shall be for a term of not less than six (6) months, and shall not provide for the lease of less than the entire Lot and all improvements located thereon.

SECTION 3. DELEGATION OF USE. Any Owner may delegate, in accordance with the applicable By-laws or Rules and Regulations of the Association, his rights of enjoyment of the Common Area and facilities to the members of his family, guests, his tenants, or contract purchasers, provided that every such delegee shall reside upon the Property or be accompanied by the Owner.

SECTION 4. CONSERVATION RESTRICTION ON OPEN SPACE.
Declarant hereby acknowledges the legal obligation to impose a conservation restriction upon all that certain real property depicted as Open Space on the recorded final subdivision plat of the

Property. The said conservation restriction, the terms of which are herein specified, shall be reserved in a deed to the Association, as a negative covenant to benefit the individual members of the Association (hereinafter the "Conservation Restriction"). The said Conservation Restriction shall be perpetual in duration and shall run with the land.

Declarant further acknowledges the Conservation Restriction is a requirement of the Greenville County Land Development and Zoning regulations (hereinafter the "Cluster Regulations"). Reference is hereby made to such Cluster Regulations, and the Conservation Restriction shall, in accordance therewith, be for the purpose of proscribing all future subdivision or development of any kind or nature whatsoever within the said Open Space. It is Declarant's express intent that no right of public access shall be intended or implied by the creation of the said Conservation Restriction. Further, beyond normal maintenance, including the removal of deadwood and organic debris, there shall be no cutting of trees or removal of natural vegetation from within the property encumbered by the Conservation Restriction, except that such trees and vegetation can be removed during development a) to establish or utilize utility easements therein; b) to establish or maintain passive recreation facilities, like a walking path or trail; and c) to establish or maintain drainageways, all of which exceptions shall be first approved by the Greenville County Planning Commission and noted on the final subdivision plat. Generally, the said trees and natural vegetation and the other natural amenities and features of the Open Space shall be preserved and maintained by and at the sole cost and expense of the Association. Additionally, the Association shall be vested with a right of enforcing the Conservation Restriction. All costs of preservation, maintenance and enforcement shall be assessable against the Association members. The Association, by acceptance of an instrument conveying the Open

Space according to these terms, shall also accept the associated monetary and maintenance responsibilities set forth herein. The provisions hereinabove recited to define the scope of the Conservation Restriction shall yield to and be construed in a manner consistent with the Cluster Regulations and shall prevail over any other inconsistent provisions hereof.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

SECTION 1. _____ Every Owner of a Lot which is subject to a lien for assessments shall be a Member of the Association. An Owner may assign in writing his membership and voting rights to an Occupant upon such terms as the Association may prescribe. Otherwise, membership and voting rights -shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment; provided, however, that no such assignment shall affect the obligation of the Owner to pay the assessment described in ARTICLE IV hereof.

Each. Owner of a Lot shall be entitled to voting rights consisting of one vote for each Lot, except as set forth below. When more than one person holds an interest in any Lot, all such persons shall be Members; provided, however, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall multiple Owners of a Lot be entitled to cast more than the one vote for that Lot.

The Association shall have two classes of voting membership: Class A Members shall be all Owners other than the Declarant, which shall be a Class B Member. The Class B Member shall be entitled to one vote for each Lot owned by it, plus one vote for each Lot owned by a Class A Member, plus one additional vote. The total vote of the Association's Members shall consist of the sum of the votes of all Class A Members and the votes of the Class B Member, with each Class A vote being equivalent to one Class B vote. Class B membership may, at the

option of the Class B Member, be converted at any time to Class A membership.

SECTION 2. BOARD OF DIRECTORS. The business and affairs of the Association shall be managed by a Board of Directors, composed according to the By-laws.

ARTICLE IV

COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Each owner of any Lot or portion thereof, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be established as necessary and collected as hereinafter provided; (3) a pro rata share of ad valorem taxes levied against the Common Areas; (4) a pro rata share of assessments for public improvements to or for the benefit of the Open Spaces and Common Area; and (5) any other reasonable charges as may be imposed in accordance with the terms of this First Amended Declaration (collectively such assessments, taxes, and charges shall be hereafter referred to as "Assessments"). The Assessments, together with interest, costs and reasonable attorney's fees for collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessments are made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment fell due. The personal obligation for the delinquent Assessments shall not pass to his successors in title unless expressly assumed by them.

The Declarant, pursuant to the plan of development for the subdivision, shall construct, or cause to be constructed, and, if deemed appropriate or necessary by Declarant, dedicated to public use, necessary streets and roads to the Lots and shall provide, or cause to be provided, either in the streets abutting a Lot or in reserved utility easements, water, sewer, electric, and

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telephone service to each Lot. The initial construction of such streets and the initial providing of such utility services to Lots shall be accomplished without cost or expense to the Association and shall not be subject to the lien and Assessment rights described herein.

SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The Assessments levied by the Association shall be used generally to promote the health, safety and welfare of the Owners and Occupants of the Property and in particular for the improvement and maintenance of the Property and for the services and facilities devoted to the Property or for maintenance of the Open Spaces and Common Areas, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Areas, maintenance of entrance areas and beautification or landscape easements, the maintenance of water and/or sewer lines in and upon the Common Area, the procurement and maintenance of insurance in accordance with the By-laws, the payment of charges for any street lights located on the Property, the employment of attorneys, accountants or other professionals to represent the Association when necessary, and such other needs as may arise.

(b) 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 of operating and managing the Property, or to the proper undertaking of all acts and duties imposed upon it by virtue of this First Amended Declaration, the Articles of

Incorporation, the By-laws of the Association, and the Rules and Regulations. As monies for any Assessment are paid unto the Association by any Lot Owner, the same may be commingled with monies paid to the Association by the other Lot Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When a Lot owner shall cease to be a Member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such owner for any share of the fund or assets of the Association which may have been paid to the Association by such Owner, as all monies which any owner 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 Property.

SECTION 3. ANNUAL AND SPECIAL ASSESSMENTS.

(a) The maximum annual assessment for the calendar year 2003 shall not exceed \$250.00 per Lot.

(b) The maximum annual assessment for the calendar year 2004 shall not exceed \$500.00 per Lot.

(c) The maximum annual assessment for the calendar year commencing January 1, 2005 and for each calendar year thereafter shall be established by the Board of Directors and may be increased by the Board of Directors without approval by the membership by an amount not to exceed fifteen percent (15%) of the maximum annual assessment of the previous year.

(d) The maximum annual assessment for the calendar year commencing January 1, 2006 and for each calendar year thereafter may be increased without limit by a vote of two-thirds (2/3) of the votes cast by the Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(e) In addition to the annual assessments authorized above, the Association may levy, at any time during any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction, reconstruction, unexpected repair or replacement of a specifically identified capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such special assessment shall have the assent of two-thirds (2/3) of the votes cast by the Members who are voting in person or by proxy at a meeting duly called for this purpose, in accordance with the procedure set forth in Section 4 below.

SECTION 4. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER ARTICLE IV. SECTION 3. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than seven (7) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

SECTION 5. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS DUE

DATES._____The annual assessments provided for herein shall be collected on an annual basis and shall commence as to each Lot on the first day of the first month following the conveyance of that Lot to an Owner by Declarant, with the Assessment for the first year of ownership to be prorated according to the portion of the year during which the Lot is owned by the Owner. At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment to be imposed on the Lots and give notice thereof to each Member. The due date for all Assessments shall otherwise be established by the Board of Directors.

SECTION 6. EFFECT OF NONPAYMENT OF ASSESSMENTS: _____ REMEDIES

OF THE ASSOCIATION. Any Assessment not paid within fifteen (15) days after the due date shall cause the overdue Lot Owner to incur a late fee of twenty five dollars (\$25.00). Any Assessment not paid within twenty (20) days after the due date shall cause the overdue Lot Owner to incur interest charges on the overdue amount at a rate of ten percent (10%) per annum, compounded monthly. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of South Carolina for the foreclosures of mortgages, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such Assessment. No Owner may waive or otherwise escape liability for the Assessment provided for herein by abandonment of the Lot nor shall damage to or destruction of any Improvements on any Lot by fire or other casualty result in any abatement or diminution of the Assessments provided for herein. In addition, the Association, or any of its officers, are hereby designated as attorney-in-fact for each

Owner for the purpose of executing and recording a "Notice of Lien," which shall set forth the amount of the lien (except for interest and attorney fees or other costs of collection that may continue to accrue) for any Assessment or other amount not paid within thirty (30) days after the due date. Each Owner, by acceptance of a deed to such Owner's Lot, consents, for itself and its heirs, successors and assigns, to the filing of said Notice of Lien by the Association and further consents to the recording and indexing of such Notice in the Office of the Register of Deeds for Greenville County.

SECTION 7. SUBORDINATION OF THE LIEN TO MORTGAGES. The liens provided for herein on any Lot shall be subordinate to the lien of any first mortgage or deed of trust on such Lot. Sale or transfer of any Lot shall not affect the Assessment lien or liens provided for in the preceding section.

ARTICLE V

ARCHITECTURAL CONTROL

SECTION 1. PURPOSE. The external design, appearance, use, location and maintenance of the Property and of improvements thereon shall be regulated in the manner hereafter described so as to preserve the enhanced values and to maintain a harmonious relationship among structures and the natural vegetation and topography of the Property. In order to provide additional specificity as to architectural standards for improvements on the Property, the Declarant may issue written design guidelines to govern the nature, kind, shape, height, color, materials, and location of improvements.

SECTION 2. CONDITIONS. No improvements, alterations, repairs, change of paint colors, plantings, excavations, changes in grade or other work which in any way alters any Lot or the exterior of the improvements located thereon from its natural or improved state shall be made or done without the prior written approval of the Architectural Committee established pursuant

to this Article. No improvement or other structure shall be commenced, erected, maintained, altered or removed without the prior written approval of the Architectural Committee.

SECTION 3. ARCHITECTURAL COMMITTEE. So long as the Declarant owns any property for development or sale in the Property, the Declarant shall have the right to appoint all members of the Architectural Committee for the express purpose of insuring compliance with the provisions of this Article. In the event any member of the Committee should, in Declarant's opinion, for any reason cease to be able to perform his duties properly, a replacement shall be selected by Declarant. Upon the expiration or earlier surrender in writing of such right of appointment, the Board shall appoint the members of the Architectural Committee. SECTION 4. DESIGN APPROVAL PROCESS

(a) The written approval required by Section 2 above shall be obtained by submitting to the Architectural Committee, in the manner hereinafter set forth, building plans, specifications and plot plan showing the proposed type of construction, exterior design and location of such residence (or other improvement) for review and approval as to compatibility, conformity and harmony of external design and consistence of plan with existing residences (and improvements) other lots in the subdivision and as to the location of the structure with respect to topography and finished ground elevation. In addition, a landscape development plan or recreational development plan must likewise be submitted and approved by the Architectural Committee showing the location of proposed recreational facilities, fences, boundary or patio walls, hedges, shrubbery, walkways, driveways, parking areas (which must provide for covered parking for not less than two automobiles) and important trees. The plans and drawings submitted shall have been prepared by an architect licensed by the American Institute of Architects (AIA) in a 1/8th scale or larger, and shall contain, at a minimum:

- (i) front, rear and side elevations
- (ii) floor plan
- (iii) the area of heated floor space
- (iv) exterior building material to include manufacturer, color and texture

- (v) exterior trim color
- (vi) roofing material and color
- (vii) site plan showing (on a scale of one to fifty or larger) foundation of all structures, walks, driveways, fences and drainage plans
- (viii) landscaping plan of front yard, side yards and rear yards
- (ix) estimated completion dates of all construction and improvements
- (x) special treatment required to alleviate problems anticipated due to changes in topography

(b) In order to prevent duplication of buildings or improvements to be constructed in this subdivision and to carry out the intent of this First Amended Declaration, the Committee is vested with full authority to approve or disapprove plans for the construction of any building or improvement with its major features so similar to an existing building or improvements as to be considered a substantial duplication thereof in the discretion of the Committee. The Architectural Committee shall further have the right to refuse to approve any plans or specifications for buildings or improvements, plot plans or landscape or recreational plans, taking into consideration such factors as it may deem appropriate, including but not limited to the suitability of the proposed building or other improvements, the materials of which it is to be built, whether or not it is in harmony with the surroundings, what effect it will have on other residences already constructed and what effect it will have on the outlook from adjacent or neighboring property.

(c) The Architectural Committee, in its sole and absolute discretion, shall have the right and authority to approve or disapprove an Owner's chosen builder or contractor. In making the decisions to approve or disapprove any such builder or contractor, the said Architectural Committee shall consider and Owner shall submit proof of the following:

- > (i) builder's possession of a valid South Carolina general contractor's license;
- ^ (ii) builder's possession of a construction bond or the ability to obtain same;
- (iii) builder's experience in the construction of houses of similar size and value as contemplated herein;

(iv) builder's credit and judgment history (as evidenced by the lack of any recorded judgment for or against said builder on the Judgment rolls for Greenville County and by the lack of any pending litigation for or against such builder).

(d) In the event that the Committee fails to approve or disapprove plans which comply with the requirements of subsection (a) above within forty-five (45) days" after they have been submitted to it, approval of the Architectural Committee will be conclusively presumed and this covenant will be deemed to have been fully complied with. The term "building or improvement" shall be deemed to include, though not be limited to, the erection, placement or alteration of any wall, fence, driveway, parking area, mailbox, light or recreational amenity, including but not limited to swimming pools.

(e) Application for approval as required herein shall be made c/o the Declarant at its principal office of Post Office Box 416, Greenville, South Carolina, 29602 or such other address as Declarant or the Committee may hereafter designate, and at the time such application is made, the building plans, specifications, plot plans and landscape or recreational plans shall be submitted in duplicate. The Committee, in its sole discretion may impose a nonrefundable review fee of \$150.00 to offset the cost of any professional services required in conjunction with review. During any year, the Committee may increase the review fee by not more than 10% of the amount of the fee charged during the previous year if it finds it necessary in its reasonable discretion to do so. One copy of such plans and specifications will be retained by the Committee and the other copy will be returned to the applicant with approval or disapproval plainly noted thereon.

(f) Upon the approval by the Committee of any proposed construction or alteration, the Committee shall issue to the applicant a written permit. No construction or alteration shall be carried on until and unless such permit is obtained.

(g) The Architectural Committee is authorized by a unanimous vote of all its members to approve or ratify in the construction or alteration of any building or improvement minor

violations of any provisions of these restrictions relating to set back, location, size of improvements or similar matters if in the opinion of all the members of the Committee such shall be necessary to prevent undue hardship and to waive or vary the provisions of this Article or other provisions of this First Amended Declaration relating to use of the Property if, in the opinion of all the members of the Architectural Committee, such waiver or variance would not be inconsistent with the intent and purpose of this First Amended Declaration. The approval or ratification by the Committee in accordance with this paragraph shall be binding on all persons.

(h) All residential buildings must be completed in a workmanlike manner and the construction site at all times must be kept clean and free of debris. Damage to any street, curb, gutter or sidewalk occurring during construction of any Improvement on a Lot shall be promptly repaired by the Owner or his builder or contractor. Should the owner fail to promptly repair or have repaired any such damage, the Association shall have the right to do so, and the cost of such repairs may be immediately assessed against and collected from the Owner in the same manner as other assessments allowed under this First Amended Declaration.

(i) In the event construction of any building or improvement is commenced on any Lot in this subdivision and work is abandoned for a period of thirty (30) days or longer, without just cause shown, or should any building or improvement remain unfinished for a period of nine (9) months from the date construction began, without just cause shown, then and in either event the Architectural Committee shall have (1) the authority to complete the structure at the expense of the Owner and shall have a lien against the Lot and all Improvements to the extent of any monies expended for said completion but said lien shall at all times be subordinate to the lien of any prior recorded mortgage or mechanic's lien (but the Committee shall have the right to contest the validity and amount of such liens) or (2) the authority to remove the improvements from the Lot and the expense of said removal shall constitute a lien against the Lot, which lien shall be subordinate to the lien of any prior recorded mortgage or mechanic's lien. Said liens shall be foreclosed in the same manner as the procedure set forth in ARTICLE IV for the foreclosure of liens for assessments. No action shall be taken under this paragraph without notice to any

mortgagee or other lien holder of the proposed action to be taken and to give ten (10) days in which to allow owner to show cause, if any he can, why the Architectural Committee should not take action under this paragraph.

(j) When 80% of the numbered Lots have been sold by Declarant, Declarant may, at its option, turn over the functions of the Architectural committee to the Association. The Association shall thereafter appoint the Architectural Committee, and at all times at least one member of the Committee thus appointed shall be a licensed architect.

(k) Each Lot owner and his contractor, subcontractor, and other agents shall take full responsibility for controlling surface water run off and sediment which may adversely affect any other property. Plans to control said run off and sediment must be submitted to the Architectural Committee along with other required plans. Notwithstanding any plans as may be submitted, the Architectural Committee may make additional reasonable requirements of Lot Owners to prevent or control excess run off or sediment during construction or thereafter. However, responsibility for the surface water run off will be that of the Lot Owner and not that of the Architectural Committee.

ARTICLE VI

USE AND IMPROVEMENTS RESTRICTIONS

SECTION 1. USE OF PROPERTY. Each Lot and the residence and improvements thereon and the Common Area and facilities shall be for the following uses and subject to the following restrictions:

(a) **RESIDENTIAL USE/MINIMUM SQUARE FOOTAGE:** All buildings and the Common Area and facilities shall be used for residential and related common purposes. Each Lot may not be subdivided and shall be used as a single-family residence and for no other purpose, except that the Declarant and others approved and designated by Declarant may use one or more Lots or residences for offices and/or model residences for sales purposes. No residence shall be constructed which does not contain a minimum of 2000 square feet of enclosed heated living space for any two-story residence and 1800 square feet of enclosed heated living space for any

one-story residence and is not set back from the front, side and rear property lines at least the minimum number of feet required by the set back lines shown on the recorded subdivision plat of the Property and/or as required by applicable zoning laws or subdivision regulations.

(b) NO WASTE OR USE TO INCREASE RISK: Nothing shall be kept and no activity shall be carried on in any building or residence or on the Common Area and facilities which will increase the rate of insurance, applicable to residential use, for the property or the contents thereof. No Owner shall do or keep anything, nor cause or allow anything to be done or kept, in his residence or on the Common Area and facilities which will result in the cancellations of insurance on any portion of the Property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common Area and facilities.

(c) NO IMPROPER OR UNLAWFUL ACTIVITIES: No immoral, improper, offensive or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property.

(d) NO ALTERATIONS WITHOUT APPROVAL: Nothing shall be done in or to any residence or in, to, or upon any of the Common Area and the facilities which will impair the structural integrity of any building, residence, or portion of the Common Areas and facilities or which would impair or alter the exterior of any building or portion thereof, except in the manner provided in this First Amended Declaration.

(e) NO COMMERCIAL USE: No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any part of the Property, except that the Declarant or those designated by Declarant may use any Lot or residence for sales or display purposes.

(f) SIGNS: No Owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any residence, building or any portion of the common area and facilities, except as may be allowed by the Association pursuant to its By-laws, provided, however, that the Declarant, any Owner and any mortgagee who may become the owner of any Lot, or their respective agents, may place "For Sale" signs, not larger than 18 x 24 on any Lot.

(g) IMPROVEMENTS ON COMMON AREAS: No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Area and facilities except at the direction of and with the express written consent of the Association.

(h) USE OF COMMON AREAS: The Common Area and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the residences, subject to any rules or regulations that may be adopted by the Association pursuant to its By-laws.

(i) CAMPERS, BOATS AND TRAILERS: Any camper, boat, or trailer or any vehicle or item not in daily use placed upon any Lot by the owner must be stored at all times behind the closed doors of the garage for such Owner's residence. No such item(s) shall be placed elsewhere on any Lot on which there shall not be a garage except for brief periods reasonably necessary to load or unload them, and no repairs to such items shall be conducted upon any Lot except in the garage.

G) GARBAGE STORAGE AND DISPOSAL: Any and every container used to store garbage, refuse and debris until collected by public or private waste disposal service shall be stored on each lot so that it shall be out of sight from all streets.

(k) UNDERGROUND TANKS: All fuel oil tanks or containers shall be buried underground consistent with normal safety precautions and applicable laws.

(l) PETS: No animals shall be kept, maintained or quartered on any Lot or any portion of the Property except that cats, dogs, rabbits, hamsters or caged birds may be kept in reasonable numbers as pets for the pleasure of the occupants. The Architectural Committee is authorized

(s) TREE REMOVAL: No tree having a trunk diameter often inches or more shall be⁴ removed or relocated on any Lot without prior written approval of the Architectural Committee.

(t) TENNIS COURTS: No tennis courts shall be constructed on any Lot subject to this First Amended Declaration.

(u) FENCES: No chain link fences shall be constructed on any Lot subject to this First Amended Declaration.

(v) BIRD SANCTUARY: All Property subject to this First Amended Declaration is hereby declared to be and designated as a bird sanctuary.

(w) GUNS: The use of firearms in the Subdivision is prohibited. The term firearms includes rifles, pistols, "BB guns," pellet guns and small firearms of all types.

SECTION 2. QUIET ENJOYMENT. No obnoxious or offensive activity, including activity which creates loud or offensive noises, shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to residents within the Property.

SECTION 3. GENERAL EXTERIOR OF IMPROVEMENTS. Except as otherwise set forth herein and in any design guidelines as the Declarant may promulgate, Architectural styles for the Improvements are not restricted, but the Plans must illustrate superior, design and require quality materials and workmanship. In order to ensure an integrity of appearance, the street-facing facade of all buildings in the subdivision shall be constructed to exhibit fifty percent (50%) of their surface area as composed of or veneered with brick or rock. More generally, inferior design and materials will not be approved. The Architectural Committee, in its sole discretion, shall determine whether or not a particular design or materials choice is in keeping with the purposes referred to in ARTICLE V above.

ARTICLE VII
EASEMENTS

SECTION 1. WALKS. DRIVES. PARKING AREAS. AND UTILITIES. All Common Areas shall be subject to a perpetual non-exclusive easement or easements in favor of all Owners of Lots for their use and the use of their immediate families, guests, invitees, tenants or lessees for all proper and normal purposes and for ingress and egress and regress to, from and across such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television cable or antenna lines, and other public utilities as shall be established either prior to or subsequent to subjecting the Property to this First Amended Declaration by the Declarant. The Declarant hereby expressly reserves the right to grant and/or create any such easement subsequent to the date hereof in the event the necessity of such shall subsequently become apparent due to the development of the Property. The Association shall have the power and authority to grant and to establish in, over, upon and across the Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property. Further, Declarant and the Association shall have the right at any time to enter upon any landscape, utility or other easement shown on any recorded subdivision plat of the Property and/or established pursuant to this First Amended Declaration for the purpose of maintaining the same and to cross such other portions of the Property as may be reasonably necessary to carry out such maintenance.

SECTION 2. ENCROACHMENTS. All Lots and the Common Area shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach, including, without limitation, such items as driveways and walls. If any encroachment shall occur subsequent to

subjecting the Property to this First Amended Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every Lot shall be subject to an easement for entry and encroachment by the Declarant for a period not to exceed eighteen (18) months following conveyance of a Lot to an Owner for the purpose of correcting any problems that may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected Lot or Lots to as near the original condition as practicable.

SECTION 3. EMERGENCIES. Every Lot and residence shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot or within any residence and that endangers any building or portion of the Common Area.

ARTICLE VIII

COVENANTS OF OWNERS TO KEEP LOTS AND IMPROVEMENTS INSURED AGAINST LOSS, TO REBUILD AND TO KEEP IN GOOD REPAIR SECTION 1.

The Declarant covenants with the Association, on behalf of itself and on behalf of each subsequent Owner of a Lot within the Property, and each Owner of any Lot within the Property, by acceptance of a deed therefore, whether or not it shall be so expressed in said deed, or by exercise of any act of ownership, is deemed to covenant:

(a) The Association shall obtain a general all-peril public liability policy and a blanket insurance policy equal to the full replacement value of any and all/or all improvements constructed upon the Common Area. Said policy shall contain a replacement cost endorsement providing for replacement of a structure from insurance loss proceeds, and said policy shall be

consistent with the requirements of any mortgages or financing agreements to which the Common Area and any improvements thereon may be subject.

(b) The Association shall apply the full amount of any insurance proceeds to the rebuilding or repair of any said improvement, subject to the concurrence of any mortgagee or
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lienholder having a right to control the application of such proceeds.

(c) Each Owner shall keep his Lot and any Improvements thereon adequately maintained and repaired at all times in a neat, attractive and presentable manner so as not to detract from the overall appearance of the subdivision or the surrounding Property.

(d) Premiums for the group or blanket hazard insurance policy and the general public liability policy shall be a common expense and shall be collectible in the same manner and to the same extent as provided for annual and special assessments in Article IV.

(e) Any Owner shall, at his own expense, carry adequate hazard and homeowners insurance policies insuring the residence and improvements on his Lot.

(f) In the event of damage or destruction by fire or other casualty to any property covered by insurance payable to the Association, the Board of Directors shall, with the concurrence of mortgagees, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good conditions as prior to the damage. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors.

(g) Also, the Association may levy in any calendar year, a special assessment for the purpose of defraying the cost of construction, reconstruction, repair or replacement of a building or buildings constructed within the Common Area, to the extent that insurance proceeds under a group insurance policy containing a replacement cost endorsement are insufficient to pay all

costs of said construction, reconstruction, repair or replacement to as good condition as prior to damage or destruction by fire or other casualty covered by insurance.

(h) In the event a dwelling is damaged or destroyed, and the Owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the Lot, so that it shall be placed in a neat, clean and safe condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the dwelling until paid by the owner and may be foreclosed in the same manner set forth in ARTICLE IV for liens for assessments.

(i) Any dwelling which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this First Amended Declaration and to the By-laws of the Association.

(j) The Association shall maintain adequate fidelity coverage against dishonest acts by officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. Such fidelity bonds shall:

- (i) Name the Association as an obligee.
- (ii) Be written in an amount equal to at least 20% of the estimated annual operation expenses of the Association, including reserves, (iii) Contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

ARTICLE IX GENERAL

PROVISIONS

SECTION 1. ENFORCEMENT. The Association, and any Owner or Occupant, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the

Declaration, the Articles of Incorporation or By-laws of the Association. If the Association or an Owner or Occupant is successful in any such proceeding brought to enforce the provisions of this First Amended Declaration or any lien provided for herein, such successful party shall be entitled to recover from the defendant or defendants all costs and attorneys' fees reasonably incurred in such proceeding. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Property to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

SECTION 2. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

SECTION 3. MINOR VIOLATIONS: AMENDMENT. Declarant may, without the joinder of any Owner, waive in whole or in part any minor violations of any of the restrictions herein contained. The covenants and restrictions of this First Amended Declaration shall run with and bind the land for a term of twenty (20) years from the date this First Amended Declaration is recorded, after which time they shall be automatically extended for successive periods often (10) years. This First Amended Declaration may be amended during the first five (5) year period by an instrument signed by Declarant and Owners holding at least ninety Percent (90%) of the then outstanding votes in the Association, and thereafter by an instrument signed by Members holding not less than seventy-five percent (75%) of the then outstanding votes in the Association, provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. In order to be valid and enforceable, any amendment must be properly recorded.

SECTION 4. EXTENSION OF COVENANTS TO INCLUDE ADDITIONAL PROPERTY. Declarant may at any time make subject to this First Amended Declaration other properties now or hereafter owned by Declarant or the Association by executing an instrument in

writing applying this First Amended Declaration to such other properties and by recording the same in the RMC Office for Greenville County. Upon such recordation (1) this First Amended Declaration shall run with the Property already subject thereto and with such additional property as if such Declaration had always applied to all of said land from the date of its inception; and (2) whenever thereafter in construing this First Amended Declaration reference is made to "the Property" said term shall mean and include not only the properties described in Exhibit A hereto, but also such additional properties as may be made subject to this First Amended Declaration. When extending this First Amended Declaration to cover additional properties, Declarant may specifically alter or amend any provision of this First Amended Declaration with respect to such additional properties if, in Declarant's sole judgment, such alteration or amendment is necessary for the proper use and development of the additional properties and consistent with the overall intent and purpose of this First Amended Declaration.

IN WITNESS WHEREOF, the undersigned Declarant (by and through its duly authorized manager) has caused this instrument to be executed as of the 12th day of April, 2003.

HOGAN PROPERTIES KILGORE FARMS, LLC

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By:
llv. Manager