

FOR REGISTRATION REGISTER OF DEEDS  
ELIZABETH T COOPER  
BURKE COUNTY, NC  
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**AGREEMENT TO RE-STATE THE  
RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS  
OF SILVER CREEK PLANTATION**

THIS AGREEMENT is made by and among Silver Creek Plantation, LLC ("Plantation"), Big Silver Creek Development Company, LLC ("Big Silver Creek"); and Silver Creek Plantation Homeowners' Association, Inc. ("HOA"); all parties having their principal offices in Burke County, North Carolina

**WITNESSETH:**

WHEREAS, Plantation has heretofore developed a residential community which was established prior to 1999, consisting of more than twenty (20) residential Lots and features an 18-hole Championship golf course and related amenities in Burke County, North Carolina, known as "Silver Creek Plantation", and has declared Covenants, Conditions and Restrictions (hereafter "CCRs" for said community; and

WHEREAS, Big Silver Creek has heretofore developed an adjoining tract of land into 1-acre or larger residential Lots (sometimes 10-acre or larger tracts are referred to herein as "Acreage Tracts"), which has been incorporated into the Silver Creek community and restricted by Silver Creek CCRs; and

WHEREAS, HOA has been organized and exists to maintain and administer Silver Creek Common Areas; to administer and enforce these CCRs; and to collect and disburse assessments and charges levied upon properties within Silver Creek Community; and

WHEREAS, the Board of Directors of HOA is concerned that the existing CCRs are excessively long and complex, and are not user friendly The Board of Directors has requested that these CCRs be re-written so as to eliminate ambiguities and certain typographical errors; to promote

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readability; to better express the intentions of homeowners; and to enhance marketability of properties within the Silver Creek Community; and

WHEREAS, Plantation and Big Silver Creek have agreed with the above-stated concerns, and hereby consent to this Restatement of Covenants, Conditions and Restrictions, and

WHEREAS, the members of the HOA have met at the Annual Meeting of the HOA, and approved by more than two-thirds (2/3) vote a resolution to restate these CCRs as follows.

NOW, THEREFORE, in consideration of the mutually beneficial and binding covenants and conditions hereafter stated, the parties hereto do agree with one another to restate these CCRs of Silver Creek Plantation as follows:

#### PREAMBLE

“The Community” reflects the character and beauty of rural North Carolina while offering its residents modern facilities and amenities. This Agreement provides for care of the environment and appearance of the Community in keeping with the beauty of and character of the surrounding land. The Agreement exists for the enhancement of the values of all properties in Silver Creek Plantation. It provides for care of the common areas and facilitates a structure for the common administrative, safety, and related needs of the Community.

#### RECITALS

A. This document is intended to, and does hereby, supersede all previous CCRs for Silver Creek Plantation, the most recent of which was recorded on June 29, 2006, at Book 1576, Pages 666 through 692, Burke County Registry.

B. The properties to which these CCRs apply are identified by plats which have been recorded in the Burke County Registry as follows:

Plat Book 10, Page 123

Plat Book 11, Page 89

Plat Book 11, Page 90

Plat Book 11, Page 91

Plat Book 11, Page 154

Plat Book 11, Page 156

Plat Book 11, Page 157  
Plat Book 11, Page 158  
Plat Book 14, Page 12  
Plat Book 14, Page 116  
Plat Book 14, Page 144  
Plat Book 15, Page 235  
Plat Book 19, Pages 91-92  
Plat Book 20, Pages 165-166  
Plat Book 20, Pages 167-168  
Plat Book 22, Page 87  
Plat Book 22, Page 217  
Plat Book 23, Pages 1-2  
Plat Book 24, Pages 15-16  
Plat Book 27, Pages 199-200  
Plat Book 28, Pages 153-154  
Plat Book 31, Pages 87-88  
Plat Book 31, Page 165  
Plat Book 32, Pages 55-56  
Plat Book 34, Page 207  
Plat Book 36, Page 218  
Plat Book 38, Page 41

Plantation and Big Silver Creek have reserved lands which adjoin the above-referenced properties which will be added to the Silver Creek Community and which will become subject to these CCRs.

DECLARATION

The parties do hereby declare that the above-described Properties, constituting the Silver Creek Plantation Community (but excluding the Silver Creek Golf Course) shall be held, sold and conveyed subject to the North Carolina Planned Community Act as set forth in North Carolina General Statutes Chapter 47F (hereinafter "Act"), as well as the easements, restrictions, covenants

and conditions as set forth in this instrument, which supersede all previous CCRs applicable to said Properties, effective upon the recording hereof at the Office of the Register of Deeds of Burke County, North Carolina ("Burke Registry").

#### DEFINITIONS

1. "Association". This word shall mean and refer to the Silver Creek Plantation Homeowners' Association.

2. "Common Area". These words shall mean all real property owned by the Association, and/or easements for the common use and enjoyment of the Owners. The Association has reserved unto itself and its mortgagees Common Area for construction vehicles and workers; maintenance and service vehicles; public works and services vehicles; delivery vehicles; and for other similar uses and purposes. The Association retains the full authority to assign to any third party the use of Common Area, or any portion thereof, as defined herein. The streets within Silver Creek Plantation are private roads previously owned by Declarant (and now owned by the Association) over which the parties to this Agreement have a non-exclusive easement for ingress and egress. The streets are part of the Common Area. The Association has the right, in its sole discretion, to determine whether the streets will be added to the State of North Carolina highway system. The Association will repair and maintain the Common Area, including streets within Silver Creek Plantation. In addition, the Association has other Common Areas for the enjoyment of and use by its members, including but not limited to a Tennis Court and Swimming Pool and Pool House and related equipment.

3. "Community". This word shall mean the Property as presently described and any additions thereto permitted by the HOA.

4. "Declarant". This word shall mean Silver Creek Plantation, LLC, its successors and assigns, or to any successor-in-title to Silver Creek Plantation.

5. "Declaration". This word shall mean and refer to the Declaration of Restrictive Covenants, Conditions and Restrictions of Silver Creek Plantation, as the same may be amended, restated, renewed or extended from time to time in the manner prescribed, which are recorded in the Office of the Register of Deeds of Burke County, North Carolina. This phrase is referred to herein as "CCRs".

6. "Development Period". The Development Period ended in November 2000.

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7. "Lot" This word shall mean and refer to any numbered plot of land or numbered tract or any lettered (as distinguished from numbered) plot of land for a portion of Silver Creek Plantation recorded in the Office of the Register of Deeds of Burke County, North Carolina.

The term "Lot" also includes Lots 1 through 11 of Phase One, Section A, which have been re-subdivided and developed for single family residences and duplexes. Each duplex residence shall be assessed by the HOA as other Lots within the development.

8. "Member" This word shall mean and refer to all who are members of the Association. Each Lot Owner and each Dwelling Unit Owner in Silver Creek Plantation shall be a Member of the Association. If more than one person owns an interest in a Lot, either as a joint owner, or through a corporation, partnership or limited liability company, such entity shall designate one individual to act as the Member on behalf of such Owner.

9. "Mortgage". This word shall mean all instruments given to secure the payment of an indebtedness.

10 "Owner". This word shall mean and refer to the record owner, whether one or more Persons or entities, of a fee simple title to any Lot

11. "Person" This word shall mean and refer to an individual, firm, corporation, partnership, trust, or any other legal entity

12 "Planned Community". This means real estate with respect to which any person, by virtue of that person's ownership of a Lot, is expressly obligated by these CCRs to pay real property taxes, insurance premiums, or other expenses to maintain, improve, or benefit other Lots or other real estate described in these CCRs. For purposes of this Act, neither a cooperative nor a condominium is a planned community, but real estate comprising a condominium or cooperative may be part of a planned community. "Ownership of a Lot" does not include holding a leasehold interest of less than 20 years in a Lot, including renewal options

13. "Plat". This word shall mean and refer to the Plats of the various Phases and Sections of Silver Creek Plantation, including subsequent Plats for additional Property subjected to these CCRs, and the amendments thereto. References are to records in the Office of the Register of Deeds of Burke County, North Carolina.

14. "Property". This term shall mean and refer to that certain real property included within the Plats, and any additional Property which the Declarant, or the Association may subject to these CCRs, including amendments to these CCRs.

15. "Reserved". This term shall mean and refer to those areas designated as "Reserved" on Plats of Silver Creek Plantation. The Declarant retained the right, in its sole discretion, to determine the uses to which such areas may be subjected. Notwithstanding this reservation, such "Reserved" areas shall hereafter be subject to the terms and conditions of these CCRs.

16. "Residence". This word shall mean and refer to the building located upon a Lot designated and intended for use and occupancy as a residence. "Residence" includes a bed and breakfast inn, which is permitted on Lots A and B, in Phase Two, Section F; and each residential unit within duplexes which are permitted on Lots 1 through 11 in Phase One, Section A.

17. "Restrictive Covenants, Conditions and Restrictions (CCRs)". This term shall refer to the restrictive covenants, conditions and restrictions governing and controlling Lots and Common Areas in Silver Creek Plantation.

18. "Review Board". This term shall mean and refer to that Board containing four (4) members for the review of certain matters as recited herein and as recited in the Association By-Laws. The Review Board shall have the right to approve all plans and specifications as provided in these CCRs or in the Silver Creek Plantation Homeowners' Association By-Laws. The Association's Board of Directors shall appoint the members of the Review Board and exercise the right for architectural control.

19. "Silver Creek Plantation". This term as used herein shall mean that portion of the residential Community known as Silver Creek Plantation as shown on the Plats, together with additions thereto. Silver Creek Plantation may be referred to herein as "subdivision", "community", or "development" and such words shall be taken interchangeably to mean the Property described herein.

#### UPKEEP OF PLANNED COMMUNITY AND ASSESSMENTS FOR DAMAGES

1. Except as otherwise provided in these CCRs, North Carolina General Statutes Chapter 47F-3-113(h) or subsection (2) of this section, the Association is responsible for causing the Common Areas to be maintained, repaired, and replaced when necessary and to assess the Lot

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Owners as necessary to recover the costs of such maintenance, repair, or replacement except that the costs of maintenance, repair, or replacement of a limited Common Area shall be assessed as provided in North Carolina General Statutes Chapter 47F-3-115(c)(1). Except as otherwise provided in these CCRs, each Lot Owner is responsible for the maintenance and repair of his Lot and any improvements thereon. Each Lot Owner shall afford to the Association access through the Lot Owner's Lot reasonably necessary for any such maintenance, repair, or replacement activity.

2. If a Lot Owner is legally responsible for damage inflicted on any Common Area, the Association may direct such Lot Owner to repair such damage, or the Association may itself cause the repairs to be made and recover damages from the responsible Lot Owner.

3. If damage is inflicted on any Lot by an agent of the Association in the scope of the agent's activities as such agent, the Association is liable to repair such damage or to reimburse the Lot Owner for the cost of repairing such damages. The Association shall also be liable for any losses to the Lot Owner.

4. When the claim under subsection (2) or (3) of this section is less than or equal to the jurisdictional amount established for small claims by North Carolina General Statutes Chapter 7A-210, any aggrieved party may request that a hearing be held by the Board of Directors to determine if a Lot Owner is responsible for damages to any Common Area or the Association is responsible for damages to any Lot. The Board of Directors shall accord to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. The Board of Directors may assess liability for each damage incident against each Lot Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statutes Chapter 7A-210. When the claim under subsection (2) or (3) of this section exceeds the jurisdictional amount established for small claims by North Carolina General Statutes Chapter 7A-210, liability of any Lot Owner charged or the Association shall be determined as otherwise provided by law. Liabilities of Lot Owners determined by hearing or as otherwise provided by law shall be assessments secured by lien under North Carolina General Statutes Chapter 47F-3-116. Liabilities of the Association determined by hearing or as otherwise provided by law may be offset by the Lot Owner against sums owing to the Association and if so offset, shall reduce the amount of any lien of the Association against the Lot at issue.

5. The Association shall not be liable for maintenance, repair, and all other expenses in connection with any real estate which has not been incorporated into the planned community.

6. The Association may assess some Lot Owners for the cost of the use and maintenance of limited Common Areas or areas in which only these Lot Owners benefit, e.g., the Association's water system.

#### RESERVED AREAS

Section 1. Applicability of Restrictions These restrictions shall apply to the properties identified in the recorded Plats, which are enumerated in Section B, "RECITALS" hereinabove, together with additions thereto. Any areas marked on said Plat or Plats, as "Reserved" are now subject to these CCRs.

Section 2 Reserved Areas. Any portion of the property identified on a Plat recorded in the Office of the Register of Deeds of Burke County, North Carolina, as "Reserved" may be developed by the Declarant for residential use or other purposes and will be subject to these CCRs.

#### RESTRICTIONS AND COVENANTS

The following CCRs are herewith imposed on the Property:

Section 1. Duration. These CCRs shall run with and bind the land, and shall inure to the benefit of, and be enforceable by the Owners of any land subject hereto, and to their respective heirs, legal representatives, successors and assigns, and to the Declarant and/or the Association for a term of thirty (30) years from the date these CCRs are filed or recorded in the Office of the Register of Deeds for Burke County, after which time said CCRs shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then record Owners of 66 2/3% of the Lots has been recorded, agreeing to change said CCRs in whole or in part.

Section 2. Residential Use of Property. All numbered and lettered Lots on Plats subject to these CCRs shall be used for single family residential purposes and shall not be used to conduct a business or business activity, except.

- (a) Lot 1 through 11 of Phase I, Section A, are permitted to have a duplex constructed thereon, provided, however, the use of said duplexes shall be subject to all other provisions of these CCRs, and the amendments thereto.



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(b) Following approval, heretofore given, by the Association of a specific area containing acreage tracts (herein Acreage Tracts of ten acres or more, as shown on a separate Plat or Plats), notwithstanding other provisions in these CCRs and amendments thereto, such Acreage Tracts may be used for residential purposes and with barns, other outbuildings and ponds. Horses and ponies are allowed on such Acreage Tracts, subject to the following restrictions:

1. The site plan and building plans which include exterior finishes and elevations of all proposed structures, improvements, fencing and landscape plans shall be subject to approval of the Review Board. All improvements shall be constructed in accord with the approved plans. If the Owner desires to construct a pond upon his Acreage Tract, the Review Board shall approve or disapprove such plan only after approvals by applicable governmental entities for construction of the pond.
2. Subject to the approvals required in subparagraph 1 above, one barn may be constructed. The barn shall not exceed twenty-five (25) feet in height. The total square footage contained within each barn shall not exceed in the aggregate four thousand (4,000) square feet. Each barn shall be permanently affixed to the property and shall be covered with exterior materials approved by the Review Board.
3. No more than one horse and/or pony per one and one-half (1 ½) acres available for a barn and pastures is permitted.
4. An Owner may park a motor home or horse trailer(s) at locations on his Acreage Tract upon approval of the Review Board, provided the motor home or horse trailer(s) is not visible from the road. A horse trailer need not be parked on a concrete or asphalt driveway.

5. A barn for horses and ponies is permitted on an Acreage Tract, however, business or commercial use of such facility is expressly prohibited.
- (c) The operation of a bed and breakfast inn is permitted on Lots A and B, of Phase II, Section F.
  - (d) Declarant is hereby specifically authorized to construct and operate a sales office on Lots 56, 57 or 58, Phase I, Section A.
  - (e) A property Owner may have an office in his/her private dwelling provided that the use of such office complies with applicable zoning requirements.
  - (f) Yard or Garage Sales will only be permitted in the Swimming Pool parking lot. Such Sales must first be approved by the Review Board.

Section 3. Applicability of the Planned Community Act. Unless specifically indicated to the contrary in these CCRs, all of the sections of the North Carolina Planned Community Act, Chapter 47F, shall apply to Silver Creek Community and the Association and its members, and is incorporated herein by reference.

Section 4. Building Construction. Prior to construction of any improvements on any Lot, the Owner must provide the Review Board with a site plan, building plans which include exterior finishes and elevations of all proposed structures, and landscape plans. No construction shall commence upon any Lot or Acreage Tract until such plans shall have been approved in writing by the Review Board. Except for a bed and breakfast inn which is permitted on Lots A and B, duplexes which are permitted on Lots 1 through 11 of Phase One, Section A as the same may be re-subdivided; and the improvements permitted on an Acreage Tract, no more than one single-family dwelling shall be erected on any Lot. Small accessory buildings, including guest houses, may be constructed so long as the buildings' locations comply with applicable zoning requirements, to include setback, height, or other requirements; the buildings do not obstruct any views; and the buildings' exterior design and construction are compatible with that of the main dwelling.

Single-family dwellings shall have a ground floor area of finished, heated living area, exclusive of porches and garages of not less than 1,800 square feet for a one-story dwelling. A two-story residence shall have no less than 1,200 square feet of finished, heated living area on the first floor and 1,900 square feet of finished, heated living area total, exclusive of porches and garages.

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A tri-level home shall be deemed a two-story home. A bi-level home shall be deemed a one-story home.

Section 5. Setbacks and Building Lines All structures erected on any Lot shall be located on such Lot within the setback lines as shown on the recorded Plats, and in compliance with applicable setback requirements of applicable governmental ordinances or regulations to which it is subject. For the purposes of determining compliance with the foregoing setback requirements, terraces, stoops, wing-walls, and steps extending beyond the outside wall of a structure shall not be considered to be a part thereof.

Section 6. Combination or Subdivision of Lots. Except as otherwise set forth herein, no Lot (or Acreage Lot) shall be subdivided by sale or otherwise so as to reduce the Lot area shown on the Map. However, an Owner may combine a Lot with a portion or all of another contiguous Lot so long as the parcel or parcels which result from such combination do not violate any applicable zoning ordinance or other applicable law or regulation. In the event that all or parts of two or more Lots hereunder are combined so as to create one parcel, the resulting parcel shall be considered as one Lot for all purposes of these CCRs. Furthermore, the Owner of any Lot which combines with all or a portion of a contiguous Lot shall be solely responsible for any costs which may result from such combination, including the costs of relocating any existing easements. Notwithstanding the foregoing, Declarant reserves the right to change the boundaries or dimensions of any Lots still owned by Declarant.

Notwithstanding the foregoing provisions, it is acknowledged and approved that Lots 88, 89, 90, 91 and 92 have been modified into four (4) Lots consisting of Lots 88, 89, 90 and 91 as shown on survey of W. K. Dixon, dated November 20, 2000.

Section 7. Delivery Receptacles and Property Identification Markers. The Review Board shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly-delivered materials, as well as property identification markers.

Section 8. Use of Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot. No carport, unenclosed garage, trailer, mobile home, modular home, pre-fab home, manufactured home, camper, shack, tent, bus, garage, barn or other structure of a similar nature shall be used as a Residence, either temporarily or permanently;

provided, however, this paragraph shall not be construed to prevent the Declarant and those engaged in construction from using sheds or other temporary structures during construction

Section 9. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any Lot or Common Area, except during such reasonable time period as is necessary for completion. The exterior of any building must be completed within six (6) months from the date of commencement of construction, except where such completion is impossible due to strikes, fires, national emergency or natural calamities

Any damage to any road, curb or sidewalk or any utility system, or to any Lot owned by someone else caused by the Owner or the Owner's builder or any sub-contractor including any utility company shall be repaired by such responsible Owner. If the Owner fails to repair such damage, the Association may make or provide for such repairs, and the Owner shall immediately reimburse the repairing party for its out-of-pocket expenses in making such repairs.

The Owner of each Lot shall at all times keep contiguous areas free from any dirt, mud, garbage, trash or other debris which is occasioned by construction of improvements on such Owner's Lot or Common Area. The Association may provide for the cleaning of public and private areas due to the activities of the Owner or Owner's builder and may assess the Owner a reasonable charge not to exceed the actual cost for such cleaning.

Each Owner's builder shall, consistent with standard construction practices, keep all portions of the Lot and Common Areas free of unsightly construction debris and shall at all times during construction either provide dumpsters for the containment of garbage, trash or other debris which is occasioned by construction of improvements on a Lot and all Common Areas, or take other measures consistent with standard construction practices as needed to keep the Lot free of such garbage, trash, or other debris.

Each Owner shall be responsible for erosion control protection during any earth-disturbing operation including during the entire period of new construction or improvements on any Lot and during installation of any landscaping at any time.

Notwithstanding the foregoing, the Association has the right to make improvements to uncompleted construction to secure the property, remove safety hazards, repair drainage problems,

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control erosion, or correct any other construction defect. In addition, the Association may remove and destroy unused building materials, construction debris, construction tools, and other items left behind by the Lot Owner, his contractors or sub-contractors. All costs associated with such corrective actions by the Association shall be reimbursed to the Association by the Lot Owner. Construction of the entire property must be completed within twelve (12) months of the date construction started, unless an extension of time for construction is approved in writing by the Review Board. A construction project will not be deemed to be completed until final inspection and approval by the Review Board. Construction not in compliance with this paragraph will be deemed uncompleted in the interpretation of this paragraph. No uncompleted structure may be occupied.

Section 10. Livestock and Pets. No animals or livestock of any kind shall be raised, bred or kept on any Lot, except for horses and/or ponies as provided in Section 2(b) above. Dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Livestock such as horses are not permitted on any Common Area, or on any Lot not owned by the Owner of the Livestock.

Household pets must not constitute a nuisance or cause unsanitary conditions. Such household pets shall be maintained upon the Owner's Lot, and it shall be considered a nuisance if such pets are allowed to go upon another Owner's Lot or on the roads or other Common Areas unless on leash or carried by the Owner.

Pets, such as dogs, are not permitted to deposit excrement on any Common Area, or on any Lot owned by anyone other than the owner of the pet. Notwithstanding the foregoing, owners of such animals are responsible for immediately removing and properly disposing of all excrement deposited on any property not owned by the pet owner.

Section 11. Nuisances. No noxious, offensive or illegal activity shall be carried on, nor shall anything be done on or placed on any Lot or in any residential dwelling or outbuilding which is or may become a nuisance, or cause unreasonable embarrassment, disturbance or annoyance to other Owners in the use and enjoyment of their property. If any Owner believes that a nuisance exists, it shall be such Owner's duty to make a report thereof to the Association for investigation and potential enforcement.

Section 12. Signs. No signs of any kind may be displayed to the public view on any Common Area or Lot with the following exceptions which may not exceed six (6) square feet in size:

- (a) two (2) signs (on the Lot only) advertising the Property for sale or rent, as long as one sign is in the front yard and the other sign is in the back yard, For Sale signs may include verbiage similar to "For Sale", such as "Sale by Owner", "Build to Suit", and other terminology that clearly designates sale of the property. Such signs may not be erected in any easement or at any location not on the Lot occupied by the property that is for sale or rent;
- (b) one sign (on the Lot only) used by a builder to advertise the Lot during the construction and sales period, and
- (c) signs must be secured so they will not cause damage to or be a nuisance to the property of others.

This restriction shall not apply to signs used to identify and advertise the subdivision as a whole; to signs for selling Lots and/or houses during the Development Period; or for directional and other property identification markers or signs erected by the Declarant or the Association.

The Association has the right to remove offending signs at the expense of the Lot Owner.

No permissible sign may be displayed by a non-Owner of a Lot without expressed written approval of such Owner

No other signs of any kind are permitted

Section 13 Aesthetics; Screening; Underground Utility Service. Garbage cans and air-conditioning units shall be screened from view of neighboring Lots, the Golf Course, and roads. All utility service lines to residences shall be underground. No above-ground pool shall be erected or maintained on any Lot.

Solar collector panels in reasonable numbers on a residence may be permitted by specific permission of the Review Board, as long as they are in compliance with applicable federal, state, and local statutes, regulations, and building codes, even though not screened.

Section 14. Fences. No fence shall be built on any Lot unless required by law or regulation or as necessary to inhibit unauthorized access to an in-ground swimming pool except that fencing is permitted on Acreage Tracts as allowed in Section 2(b)1. The Review Board shall have the right to approve the location, size, design and composition of any such fencing to be erected or placed on

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any Lot or Acreage Tract. No chain link or wire fencing shall be erected or permitted to remain on any Lot

Section 15 Lot Maintenance, Trash Disposal. Each Owner shall keep his Lot in a clean and orderly condition and shall keep the improvements thereon in a suitable state of painting and repair, promptly repairing any damage thereto by fire or other casualty. No clothesline may be erected or maintained on any Lot. No Lot shall be used in whole or in part for storage of trash of any character whatsoever and no trash, rubbish, stored materials or similar unsightly items shall be allowed to remain on any Lot outside of an enclosed structure, except when temporarily placed in closed, sanitary containers pending collection by trash collection authorities or companies (which includes recycle collection companies)

Occupied Lots will be kept clean of trash and debris, regularly mowed and edged, and free of safety hazards such as dead trees. Natural areas of such Lots will be kept cleared of offensive and unsightly underbrush. They will generally conform to the appearance of other occupied Lots in Silver Creek Plantation, and they will not present a nuisance to neighbors. Except for natural areas, occupied Lots will be mowed regularly during the growing season, and mowed grasses will be kept neat and at a uniform height. Notwithstanding the foregoing, Owners are encouraged to maintain and nurture areas that preserve natural habitat and growth of healthy trees and shrubs.

Section 16. Antennae; Satellite Discs; Dishes. No discs or satellite dishes shall be erected or maintained on any Lot, except that satellite discs or dishes no greater than twenty-four (24) inches in diameter shall be permitted. No freestanding radio or television transmission or reception towers or antennae, shall be erected or maintained on any Lot. All such discs, dishes and/or antennae must be pre-approved by the Review Board prior to being erected, except that a change or addition of a satellite disc or dish hereunder will not be considered an improvement in an existing structure or occupied Lot unless its location or configuration changes from the original installation. All such antennae and reception disks must be located, configured and of a size determined and approved by the Review Board of the Association

Section 17. Off-Road Parking. Prior to occupancy of any dwelling each Owner shall provide a concrete or asphalt driveway on the Lot which provides space for parking two (2) automobiles. No truck or commercial vehicle in excess of one-ton load capacity or any vehicle under repair, or

any wrecked or junked motor vehicle shall be parked upon or permitted to remain on any Lot or any Common Area

No trailer, motor home, recreational vehicle, camper or boat shall be used as a residence, either temporarily or permanently, or be parked upon or be permitted to remain on any Lot or Common Area, for a period exceeding 24 hours, except as provided herein. If space is available, and a parking permit is approved in advance, a non-resident Lot Owner, or the guest of a Lot Owner, may park a motor home, recreational vehicle, camper or boat on a paved, Common Area parking lot for a period not to exceed seven (7) calendar days if authorized by the President of the board of directors; or in his absence, by the Vice President of the board of directors (the "permit issuer") In such event of authorized Common Area parking, the vehicle or boat may not be used as a residence, and it may not create noise or otherwise be a nuisance to other homeowners The permit issuer, alone, will select and designate the Common Area parking lot to be used therefore.

All automobiles, trucks and other vehicles described herein must have a current license plate affixed unless parked in an enclosed garage.

Except as provided herein, no trailers, commercial tools or vehicles of any kind, or any other device or vehicle may be parked in any Common Area for longer than 24 hours unless specifically authorized for a specific purpose by the board of directors of the Association. The Association is authorized to have vehicles and trailers towed and any other devices removed that fail to comply with the provisions herein, at the expense of the Owner.

Section 18. Changing Elevations. No Lot or Acreage Tract Owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade or surrounding Lots, unless pre-approved in writing by the Review Board.

Section 19. Mining There shall be no mining or drilling for mineral substances within Silver Creek Plantation.

Section 20. Sewage and Water Systems. No house shall be built on any Lot unless the Lot is served with water and a septic tank, or sewer system which may be, or become, available. The Declarant and the Association have no obligation to furnish septic or sewer systems.

Section 21. Underground Utilities. The following underground utilities will be provided to each Lot in Silver Creek Plantation



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- (a) Electric Services by Rutherford Electric Membership Corporation,
  - (b) Water Services by Brentwood Water Corporation;
  - (c) Cable Television by Charter Cable (which currently serves only part of the Community. Parts of the Community are not presently served by a Cable operator);
  - (d) Natural Gas by Piedmont Natural Gas;
  - (e) Telephone by A&T& (heretofore BellSouth).

The Association and the Review Board shall have the right to approve construction necessary for the installation and maintenance of additional utility facilities, and to approve the substitution or replacement of any of the above-named utility providers

Section 22. Unoccupied Lots. Lot Owners shall maintain their Unoccupied Lots in a clean and orderly condition. Unoccupied Lots are Lots that are vacant or that have homes under construction. If an Unoccupied Lot is sparsely populated with trees, or has no trees on it, the entire Lot must be periodically mowed and kept free of unsightly underbrush, trash and debris. If an Unoccupied Lot is treed, parts of it must be periodically mowed from the most conspicuous tree-line on the interior of the Lot out to the adjoining street and out to the adjoining golf course boundary where applicable. The entire Lot must be kept free of trash and debris. Safety hazards including, but not limited to, dead trees must be removed. An Unoccupied Lot must be mowed during the growing season so that the height of grasses and brush shall be of a uniform height that does not exceed twelve (12) inches, and grasses and brush in the mowing area must not present an uncultivated appearance. Notwithstanding the foregoing, Owners are encouraged to maintain and nurture areas that preserve natural habitat and growth of healthy trees and shrubs. Unoccupied Lots shall not be used as dumping sites for trash, yard debris or construction materials and debris.

Section 23. Light Restrictions. The Association shall have the authority to administer, control and/or prohibit any and all security lights, exterior flood lights, yard lighting or street lighting. The Association shall also have the authority to require limitations on use of any such lighting. Any exterior lighting which is installed must be shielded in such a manner as to minimize the impact on adjoining Lots.

Section 24. Entrance Gate. There is reserved unto the Declarant, the Association, and their respective successors and assigns the right and privilege, but not the obligation, to maintain guarded or electronically-monitored gates controlling vehicular access to and from the Community. Neither

the Declarant nor the Association shall be responsible for the granting or denial of access to the Community in accordance with the foregoing, or for any consequences thereof.

Section 25. Alleged Violations; Notice of Noncompliance; Notice of Corrective Action; Enforcement. The Board of Directors of the Association has the authority to, and shall investigate alleged violations of these CCRs; to issue notices of alleged violations, noncompliance, and actions which are required to correct violations. Every Owner shall have the right to submit complaints of alleged violations of these CCRs to the Board of Directors of the Association. All such complaints shall be in written form, and shall identify both the complainant and the purported offender

The Board of Directors has the authority to, and shall, investigate alleged violations; issue notices of such alleged violations; conduct hearings; issue notices of noncompliance and notices of corrective actions which are needed to correct such violations. The notice of alleged violation shall provide the alleged offender the opportunity to respond, within a reasonable time stated within the notice, in writing to the complaint.

Any hearing upon such complaints shall be informal, but shall afford both the complainant and the alleged offender full opportunity to present evidence and be heard. The decision by the Board shall be by majority vote of the participating Board members. Such decision shall be in writing, and shall include notice of the actions which are required to correct the violation(s) and the time within which such corrective actions must be completed.

Further enforcement shall be by the Association's Board of Directors, as hereinafter provided, or by any Owner at his or her own expense. The Association's Board of Directors has the right to levy fines and assessments, and to take any reasonable action to correct any such violation, and members of the Association hereby assent that any employees or agents of the Association may enter any Lot for the purpose of correcting a violation.

(a) Procedures for Fines and Suspension of Privileges or Services.

1. Notwithstanding the foregoing, if the Association investigates an Alleged Violation that may result in Fines or Suspension of Privileges or Services, a hearing shall be held before the Board of Directors to determine if any Lot Owner should be fined or if planned community privileges or services should be suspended pursuant to the powers

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granted to the Association in North Carolina General Statutes Chapter 47F-3-102(11) and (12).

2. The Lot Owner charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision.
3. If it is decided that a Fine(s) should be imposed, in amounts specified below, such Fine may be imposed for the violation. Such Fines shall be assessments secured by liens under North Carolina General Statutes Chapter 47F-3-116.
4. If it is decided that a suspension of planned community privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured
5. A Lot Owner who is delinquent on his annual dues or assessments shall be prohibited from using Common Areas of the Association. Notwithstanding the foregoing, such Lot Owner shall continue to have access to roads. Notice of said delinquency shall be mailed to the Lot Owner. The notice shall state the amount due and that the Lot Owner or his or her family and guests may not use prohibited Common Areas until the Lot Owner's dues and assessments are paid in full. This paragraph does not apply to fines for violations of the By-Laws or other rules or regulations, which require both notice and a hearing.

#### SILVER CREEK PLANTATION HOMEOWNERS' ASSOCIATION

A property owners association has been created, named Silver Creek Plantation Homeowners' Association, Inc. There were differences in the voting rights of the Declarant and the voting rights of the Lot Owners during the Development Period. The Development Period has ended. The Association will be operated in accordance with the By-Laws of the Association which are incorporated herein by reference.

Section 1. Duties and Responsibilities of Association.

- (a) By-Laws and Rules and Regulations. Adopt and amend By-Laws and Rules and Regulations
- (b) Budgets. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments from Lot Owners
- (c) Agents and Employees. Hire and terminate managing agents and other employees, agents and independent contractors
- (d) Litigation Institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the subdivision.
- (e) Contracts. Make contracts and incur liabilities.
- (f) Regulate Common Areas. Regulate the use, maintenance, repair, replacement, and modification of Common Areas and facilities.
- (g) Improve Common Areas. Cause additional improvements to be made as part of the Common Areas.
- (h) Own and Sell Property. Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property provided that Common Area property may be conveyed or subjected to a security interest by the Association only upon the affirmative vote of 66 2/3% of the votes cast, in person or by proxy, at a duly-called meeting of the Association's members.
- (i) Transfer Interest in Common Property. Grant easements leases, licenses, and concessions through or over the Common Areas.
- (j) Fees and Charges Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Areas and facilities and for services provided for Lot Owners
- (k) Late Payments. Impose charges for late payment of assessments
- (l) Fines. After notice and an opportunity to be heard, levy reasonable fines not to exceed One Hundred Fifty Dollars (\$150) for violations of these CCRs, By-Laws and Rules and Regulations of the Association Such fines may be levied for each notice by the Association even if such notices pertain to the same occurrence.

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- (m) Charges for Amendments Impose reasonable charges for the preparation and recordation of Amendments to these CCRs.
  - (n) Indemnification and Insurance Provide for the indemnification of and maintain liability insurance for its Officers, Directors, Employees and Agents
  - (o) Assign Income. Assign its right to future income, including the right to receive common expense assessments.
  - (p) Review Board. To appoint members to the Review Board and hear appeals from the decisions of the Review Board and render final decisions.
  - (q) General Authority. Exercise all other powers that may be exercised in the State of North Carolina by legal entities of the same types as the Association.
  - (r) Necessary and Proper Action. Exercise any other powers necessary and proper for the governance and operation of the Association

Section 2. Use of Common Property Subject to Rules of the Association. The use of Common Areas and facilities, by the Owner or Owners of all Lots, and all other parties authorized to use the same, shall be at all times subject to reasonable Rules and Regulations as may be prescribed and established governing such use or which may be hereafter prescribed and established by the Association.

Section 3. Assessments: Liability, Lien and Enforcement. The Association is given the authority to administer the operation and management of the subdivision, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners of all Lots. To administer property in the operation and management of the subdivision, the Association may incur expenses which are sometimes herein referred to as "common expense". To provide the funds necessary for such proper operation, management, and capital improvement, the Association is granted the right to make, levy and collect assessments against the Lot Owners and the Lots which shall be binding upon the Owners of all Lots.

- (a) Any assessment levied against a Lot remaining unpaid for a period of 30 days or longer shall constitute a lien on that Lot when a claim of lien is filed of record in the office of the Clerk of Superior Court of Burke County, North Carolina, in the manner provided herein. Unless these CCRs otherwise provide, fees, charges, late charges, and other charges imposed pursuant to North Carolina General Statutes Chapter 47F-

3-102, 47F-3-107, 47F-3-107.1, and 47F-3-115 are enforceable as assessments under this section. Except as provided in subsections (1)(a) and (1)(b) of this section, the Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes.

1. The Association may not foreclose an Association assessment lien under Article 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of fines imposed by the Association, interest on unpaid fines, or attorneys' fees incurred by the Association solely associated with fines imposed by the Association. The Association, however, may enforce the lien by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.
  2. The Association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any Lot Owner unless the fee is expressly allowed in these CCRs. Any lien securing a debt consisting solely of these fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.
- (b) The lien under this section is prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot. This subsection does not affect the priority of mechanics' or material men's liens.
- (c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the docketing of the claim of lien in the office of the clerk of superior court.
- (d) This section does not prohibit other actions to recover the sums for which subsection (1) of this section creates a lien or prohibit the Association taking a deed in lieu of foreclosure.

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(e) A judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party. If the Lot Owner does not contest the collection of debt and enforcement of a lien after the expiration of the 15-day period following notice as required in subsection (5)(a) of this section, then reasonable attorneys' fees shall not exceed One Thousand Two Hundred Dollars (\$1,200), not including costs or expenses incurred. The collection of debt and enforcement of a lien remain uncontested as long as the Lot Owner does not dispute, contest, or raise any objection, defense, offset, or counterclaim as to the amount or validity of the debt and lien asserted or the Association's right to collect the debt and enforce the lien as provided in this section. The attorneys' fee limitation in this subsection shall not apply to judicial foreclosures or to proceedings authorized under subsection (4) of this section or North Carolina General Statutes Chapter 47F-3-120

1. A Lot Owner may not be required to pay attorneys' fees and court costs until the Lot Owner is notified in writing of the Association's intent to seek payment of attorneys' fees and court costs. The notice must be sent by first-class mail to the property address and, if different, to the mailing address for the Lot Owner in the Association's records. The notice shall set out the outstanding balance due as of the date of the notice and state that the Lot Owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the Lot Owner pays the outstanding balance within this period, then the Lot Owner shall have no obligation to pay attorneys' fees and court costs. The notice shall also inform the Lot Owner of the opportunity to contact a representative of the Association to discuss a payment schedule for the outstanding balance as provided in subsection (5)(b) of this section and shall provide the name and telephone number of the representative.
2. The Association, acting through its Board of Directors and in the directors' sole discretion, may agree to allow payment of an

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outstanding balance in installments. Neither the Association nor the Lot Owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule only after the Lot Owner has been given notice as required in subsection (5)(a) of this section.

- (f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such Lot which became due prior to the acquisition of title to such Lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the Lot Owners including such purchaser, its heirs, successors, and assigns.
- (g) A claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed.
- (h) If an Owner is three (3) or more months in arrears for payment of an assessment or fine of any kind, the voting rights for the Lot shall automatically be suspended until all outstanding debts to the Association are current.

Section 4. Common Surplus. Common Surplus, meaning all monies and other assets of the Association (including but not limited to assessments, rents, profits, and revenues from whatever source) in excess of the amount of Common Expense, shall be held by the Association in the manner prescribed in, and subject to, the terms, provisions and conditions of these CCRs, imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution upon termination of the subdivision, any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then Owners of Lots equally.



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Section 5. Right of Declarant to Vote as Member of Association. The Declarant shall have one vote for each Platted Lot owned by Declarant that has not been sold and deeded to another Owner on the day of the vote.

Section 6. Relinquishment of Control Deleted, due to expiration of the Development Period

SILVER CREEK PLANTATION REVIEW BOARD

Section 1. Appointment of Review Board There is hereby created the Silver Creek Plantation Review Board. The Review Board is composed of four (4) members of the Silver Creek Plantation Homeowners' Association, Inc appointed by the Board of Directors of the Association

Section 2 Appeals. A Lot Owner may submit in writing appeals from decisions of the Review Board to the Board of Directors of the Association, whose decision thereon shall be final and binding.

Section 3 Consideration of Plans The Owner or Owner's builder must submit plans for construction of a new Residence or for exterior improvements of an existing Residence, Lot or Tract. Examples of improvements include but are not limited to changes to structures and landscaping that alter original plans for the Residence, changes to exterior finishes, structures, or elevations, and improvements that materially change attributes of external features on or associated with the Lot such as mailboxes and property identification markers Changes required to repair a Residence or Lot that restore the Residence or Lot to its original conditions are not considered improvements hereunder. The Owner or the Owner's builder is encouraged to consult with the Review Board to determine if a change to the Residence or Lot is an improvement hereunder. Such plans for construction of a new Residence or for improvements of any existing Residence to be submitted for consideration by the Review Board will consist of a site plan, building plans (including exterior finishes and elevations of all proposed structures and improvements) and landscape plans The Review Board shall have the right to approve or disapprove such plans in part or in whole. The Review Board may also recommend modifications of the same In the event the Review Board does not take action within twenty (20) days from the date the foregoing plans are received by the Review Board, such plans shall be deemed approved.

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In making its decision, factors to be considered by the Review Board shall include, but not be limited to, the following:

- (a) Preservation of the natural environment
- (b) Harmony of design and size with the locale and with existing structures, so as to avoid devaluation of surrounding properties
- (c) The desirability of minimizing intrusions on the view and privacy of surrounding properties.
- (d) Design and location of driveway entrances and utility service equipment so as to protect the subdivision roadway from damage.
- (e) Compliance with the covenants, restrictions and conditions herein, and any amendments thereto.
- (f) Hardship or unusual circumstances pertaining to the submittal in question.
- (g) Lighting systems and security systems shall be designed to preclude intrusion on adjacent Property Owners or other Lots within the subdivision.
- (h) Drainage of silt from the construction area, which shall in all cases be prevented by adequate erosion control measures

Section 4 Periodic Inspections and Final Inspection The Review Board will periodically inspect progress of construction, and will make a final inspection upon completion, in order to assure that the construction and landscaping complies with the approved plans and with these CCRs. Upon final inspection of construction by the Review Board, approval of such construction will be withheld until all construction-related debris, signs and materials have been removed from the site. In the event of non-compliance, or other cause for non-approval of construction, the Review Board will give written notice thereof (having obtained prior assent from the Board of Directors of the Association) to the Owner. Such notice may include an itemization of corrections which are necessary to achieve compliance. If a final inspection of a new Residence is not approved, the Residence is not to be occupied until compliance is achieved.

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### PROPERTY RIGHTS

Section 1 Use of Common Areas Subject to the other provisions in this Article, Owners shall have a non-exclusive easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to every Lot

Section 2. Owner's Easement of Enjoyment. Every Owner shall take title to his Lot or Acreage Tract subject to the following provisions, which shall be appurtenant to such Lot or Acreage Tract:

- (a) The right of the Association to charge reasonable assessments for repairs and maintenance of Common Areas, to establish reserves to purchase, make major repairs or improve Common Areas and to charge fines as provided hereinabove.
- (b) The suspension of voting rights and assessment of fines or penalties (including interest) for unpaid assessments
- (c) The right of the Association to encumber or convey all or any part of the Common Area property as provided hereinabove.
- (d) The right of the Declarant and its successors and assigns, to retain legal title to the Common Areas until such time as, in the opinion of the Declarant, the Association is able to maintain the same. Notwithstanding any provisions herein, the Declarant has the obligation to convey Common Area Properties to the Association prior to, or immediately following, the Development Period. No Common Area shall be transferred by the Declarant to the Association until all construction thereof has been completed by Declarant. The Association Board of Directors has the authority to accept or reject such conveyance of completed Common Areas
- (e) The right of the members, employees, invitees, guests, and agents of Silver Creek Plantation Golf Course to use the roads.

Section 3. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Areas and facilities to members of the Owner's immediate family, tenants, or contract purchasers who reside in the Residence on the Owner's Lot, but to no other party. The exercise of such delegated right of enjoyment shall be subject to all rules, regulations and By-Laws of the Association

Section 4. Assignment. The Association shall have the right to assign to any one or more Persons any and all rights, powers, title, easements and estates reserved to the Association. The Declarant shall have the right to assign to any one or more Persons any and all rights, powers, title, easements and estates reserved to the Declarant.

#### DEDICATION OF ROADS AND EASEMENTS

Section 1. Public Ownership The Association may hereafter dedicate roads, drainage easements, water system or any other Common Area or facility of the Association to a governmental body. The Association may assess each Lot Owner a prorata share of the cost required to bring such assets into compliance with the then current existing applicable governmental standards for such assets. If the Association has dissolved or has become defunct and such assets have reverted to a governmental body, then each Owner may be assessed a prorata share of the cost that will be required to bring such assets into compliance with the then current existing applicable governmental standards, and the applicable governmental body shall have authority to make such Assessments

#### EASEMENT AND UTILITY PROVISIONS

Section 1. Utility and Drainage Easements. Lots and Acreage Tracts shall be subject to easements, if any, as set forth on the recorded plats referred to hereinabove. Also, easements for the installation and maintenance of utilities and drainage facilities are hereby reserved unto the Declarant, its successors and assigns and to the Association. Such easements shall be ten (10) feet in width within the perimeter of each Lot and Acreage Tract within the subdivision. No fence, structure, planting, signs or other material shall be erected, placed or permitted to remain on any easement, since same may damage or interfere with the installation and maintenance of utilities. The easement area of each Lot, except the ingress and egress easement shown on the Plats, and all improvements within it, shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 2 Sewerage Disposal and Maintenance. Sewerage disposal shall be by septic tank, or other sewerage disposal system approved and constructed consistent with applicable rules and regulations of the governmental department or agency having jurisdiction. The Association shall be responsible for the maintenance and operation of the common disposal system, if any.

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Section 3. Fence and Planting Easement An easement for construction and maintenance of a fence and plantings, to enhance the entrance to the Community and to provide a screen from Jamestown Road, is retained by the Declarant and the Association on Lots 1, 2, 3, 4, 5, 6, 57 and 58 as shown on the Plat of Phase One, Section A of Silver Creek Plantation, recorded in Plat Book 11, Page 89 in the office of the Register of Deeds of Burke County, North Carolina.

#### GENERAL PROVISIONS

Section 1 Enforcement. The Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, easements, covenants, reservations, liens or charges now or hereafter imposed by the provisions of these CCRs and the North Carolina Planned Community Act (North Carolina General Statutes Chapter 47F). Failure by the Association to enforce any covenant or restriction herein contained shall in no event be deemed to bar the right of an Owner to do so. Notwithstanding the foregoing, upon the institution of legal proceedings by the Association to enforce these CCRs, it shall have sole authority, therefore, including authority to settle such proceedings and to issue binding release or waiver of the right to do so thereafter. In the event of a violation or breach or threatened violation or breach of any of the same, the Association, or any aggrieved Lot Owner, jointly and severally, shall have the right to proceed at law or in equity for the recovery of damages or for injunctive relief, or both.

Section 2. Severability. Invalidation of any one of these CCRs by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendments to CCRs. Any proposed amendments to these CCRs shall be brought to the floor at the Annual Meeting of the Association after advertising and discussing such proposed amendments prior to a vote by the members.

- (a) Except in cases of amendments that may be executed by certain Lot Owners under North Carolina General Statutes Chapter 47F-2-118(b) (Termination of planned community), these CCRs may be amended only by affirmative vote or written agreement signed by Lot Owners of Lots to which at least sixty-six and two-thirds percent (66 2/3%) of the votes in the Association favor the amendments
- (b) No action to challenge the validity of an amendment adopted pursuant to this section may be brought more than one year after the amendment is recorded.

