

Prepared by and return to: The Banks Law Firm, P.A., PO Box 14350, RTP, NC 27709

STATE OF NORTH CAROLINA **AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR EVERGREEN AT FLOWERS PLANTATION**

COUNTY OF JOHNSTON

This Amendment to Declaration of Covenants, Conditions and Restrictions for Evergreen at Flowers Plantation (hereinafter referred to as "Amendment") is made as of the date set forth in the notary acknowledgment herein by **McKEE HOMES LLC** a Delaware limited liability company (hereinafter referred to as the "Successor Declarant").

In addition, this Amendment is executed by **FLOWERS PLANTATION FOUNDATION, INC.**, a North Carolina non-profit corporation (the "Foundation") for consensual purposes, as set forth below.

WITNESSETH:

WHEREAS, DWF Development, Inc. has previously recorded in Book 4682, Page 317, Johnston County Registry, that certain DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EVERGREEN AT FLOWERS PLANTATION, (as amended and supplemented from time to time, hereinafter the "Declaration"); and

WHEREAS, DWF Development, Inc. transferred and assigned its rights as Declarant of the Evergreen at Flowers Plantation subdivision ("Evergreen") to Successor Declarant by that certain Transfer of Declarant Rights recorded in Book 5120 , Page 108 , aforesaid Registry; and

WHEREAS, Successor Declarant remains as the Class "B" Member of the Association, it being acknowledged that two (2) years has not yet elapsed since the expiration of the Class "B" Control Period, as required by Section 6.3(b)(i) of the Declaration [and it is further

acknowledged that said 2 year period commenced when DWF Development, Inc. sold its last Unit in Evergreen, which was the 1st day of August, 2017, as evidenced by deed recorded in Book 5001, Page 943, aforesaid Registry (which is the date that the Class "B" Control Period lapsed, as per Section 3.3(b) of the Bylaws); and

WHEREAS, pursuant to Section 6.3(b) of the Declaration, as the Class "B" Member, Successor Declarant is entitled to three (3) votes for each Unit that it continues to own in Evergreen; and

WHEREAS, there are a total of thirty-two (32) Units within Evergreen, and Successor Declarant continues to own sixteen (16) of said Units; and

WHEREAS, at least sixty-seven percent (67%) of the votes in the Association remain allocated to Successor Declarant as the Class "B" Member; and

WHEREAS, it is anticipated that the 26.716 acre parcel of land as shown on plat recorded in Plat Book 85, Page 151, which is adjacent to Evergreen (and which is described in Exhibit B to the Declaration) (the "Adjacent Parcel") will be developed into a new subdivision of 96 +/- lots to be called the Cottages at Evergreen ("Cottages"); and

WHEREAS, the Evergreen and Cottages' owners will benefit from vehicular and pedestrian access to and from Buffalo Road, which is a public right-of-way, by sharing a 221-foot portion of the private road known as Bramble Lane, said roadway portion being shown on that certain plat recorded in Plat Book 82, Page 308, aforesaid Registry (for purposes of this Amendment, the western 221-foot portion of Bramble Lane, which is the portion shown on said plat, is hereinafter referred to as "Bramble Lane"); and

WHEREAS, Successor Declarant desires to create certain cross-easement rights over Bramble Lane for the benefit of the Adjacent Parcel pursuant to Declarant authority reserved in Section 11.4 of the Declaration, as well as elsewhere within the Declaration (it being acknowledged that such easement rights are already vested for the benefit of the Evergreen Lot Owners per the terms of the Declaration);

WHEREAS, it is equitable and desirable that the Evergreen and Cottages' homeowners share the cost of maintaining Bramble Lane on a pro-rata, per lot basis; and

WHEREAS, the Successor Declarant desires to amend the Declaration to clarify the process for collecting certain Common Expenses that are exclusive to Bramble Lane; and

WHEREAS, Section 16.1 of the Declaration provides that the Declaration may be amended without restriction for so long as Class "B" membership exists; and

WHEREAS, Section 16.2 of the Declaration further provides that the Declaration may be amended by "the affirmative vote or written consent, or any combination thereof, of Owners of

Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the consent of the Declarant”; and

WHEREAS the Evergreen at Flowers Plantation subdivision has previously been subjected to that certain Development Agreement for Flowers Plantation which is recorded in Deed Book 1615, Page 601 and that certain Declaration of Easements and Covenant to Share Costs for Flowers Plantation which is recorded in Deed Book 1615, Page 609, both aforesaid Registry (collectively the “Foundation Documents”).

NOW, THEREFORE, in consideration of the sum of ten dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Declaration is hereby amended as follows:

1. The above recitals are incorporated herein by reference.
2. Successor Declarant hereby grants to, and reserves for the benefit of, the owners of the Adjacent Parcel (or any portion thereof), as well as their duly authorized agents, successors, assigns, and mortgagees (the “Grantee Parties”), a non-exclusive cross-easement over and across Bramble Lane for the purposes of enjoyment, use, access, and development of the Adjacent Parcel. The cross-easement granted hereby includes, but is not limited to, a right of ingress and egress over Bramble Lane for construction of roads, for connecting and installing infrastructure and utilities upon the Adjacent Parcel, and for vehicular and pedestrian access to and from Buffalo Road, which is a public right-of-way. Such cross-easement rights are perpetual and shall constitute covenants running with the land, subject to the terms provided herein. It is agreed that Grantee Parties and their successors or assigns shall be responsible for any damage caused to Bramble Lane as a result of their respective actions in connection with the development of the Adjacent Parcel.
3. A new Section 7.10 is hereby added as follows:

7.10. Bramble Lane Maintenance. As part of the Base Assessments in its annual budget, starting in the 2019 budget year the Association shall collect sufficient funds from the Members to pay for Evergreen’s portion of the cost of maintenance of Bramble Lane. These funds shall be remitted to Bramble Road Maintenance HOA, Inc., a North Carolina non-profit corporation, which shall take title to Bramble Lane, and which shall be organized such that the Evergreen and Cottages’ homeowners (and/ or their respective owners’ associations) shall have shared voting rights and board representation thereon, once the Foundation has relinquished declarant control thereof. Specifically, the cost of re-paving Bramble Lane is presently estimated to be \$50,000.00 in 2034, which cost is expected to be shared among 32 Evergreen Lot Owners and 96 +/- Cottages’ lot owners. Therefore, the Association shall annually remit \$833.33 to Bramble Road

Maintenance HOA, Inc. and shall annually collect from each Lot Owner \$26.04, all starting in 2019. Notwithstanding the foregoing, if the reasonable cost of the maintenance of Bramble Lane shall be determined to exceed \$50,000.00, the Association shall collect and remit sufficient funds to pay for such actual cost.

It is noted that an identical reimbursement provision will be set forth in the Cottages' declaration, as approved by the Foundation.

4. The first paragraph of Section 8.1 is hereby amended to as follows (added language in italics, removed language in strikethrough):

8.1. Budgeting and Allocating Common Expenses. At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2., *and contributions to be made to Bramble Lane Maintenance HOA, Inc.* if any. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, if any, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units. The budget shall include a line item for the annual contribution to the Foundation pursuant to the Covenant to Share Costs, a line item for any assessments or expenses due to The Village@ Flowers Plantation, Inc. pursuant to The Village Declaration, ~~and~~ a line item for costs due to the Club Owner for the mandatory membership fees associated with membership in the Pineville Club, *and a line item for contributions made to Bramble Lane Maintenance HOA, Inc.* all of which are Common Expenses, all as may be more particularly set forth in *this Declaration or The Village Declaration*.

It is noted that an identical budgeting provision will be set forth in the Cottages' declaration, as approved by the Foundation.

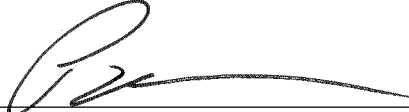
5. The Foundation executes this Amendment solely to express its assent to the terms thereof, to the extent that such assent is required under the Foundation Documents and/ or the Declaration.

6. Except as specifically amended by this Amendment, the Declaration remains unchanged and in full force and effect, and the parties by their execution hereof hereby ratify, affirm and approve the Declaration, as specifically amended hereby. All capitalized terms that are not defined herein shall have the same meanings given to them in the Declaration.

[signatures on following pages]

IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed as of the day and year indicated in the acknowledgement block below.

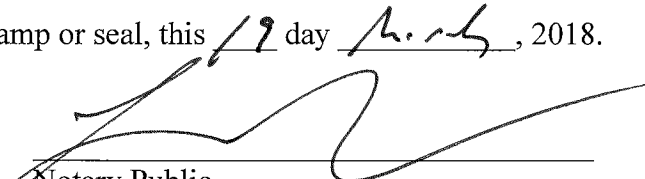
McKee Homes LLC, a Delaware limited liability company

By: 
Name: Patrick J. McKee
Title: Authorized Member

STATE OF North Carolina
COUNTY OF Cumberland

I, Leonard H. Reaves, a Notary Public of the County and State aforesaid, certify that Patrick J. McKee either being personally known to me or proven by satisfactory evidence, personally came before me this day and acknowledged that he is a Member of McKee Homes LLC, a Delaware limited liability company, and that he being authorized to do so, voluntarily executed the foregoing on behalf of said organization for the purposes stated therein.

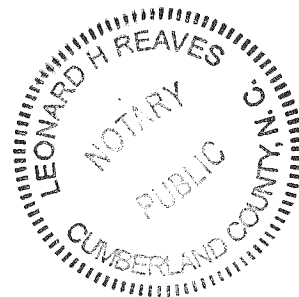
WITNESS my hand and official stamp or seal, this 19 day March, 2018.


Notary Public

My commission expires:

[Seal]

~~My Commission Expires August 25, 20~~ 19



IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed as of the day and year indicated in the acknowledgement block below.

FOUNDATION

Flowers Plantation Foundation, Inc., a North Carolina corporation

By: *Rebecca D. Flowers*
Name: Rebecca D. Flowers
Title: President

STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **Rebecca D. Flowers**, in her capacity as President of Flowers Plantation, Inc., a North Carolina corporation.

Date: 3/20/2018

Maurice Reid Stephenson
Official Signature of Notary Public

Maurice Reid Stephenson
Notary printed or typed name

My commission expires: 9/30/2022

