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Craven, NC  
Sherri B. Richard Register of Deeds

BK **2595** PG **486**

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

✓ Carolina Creek LLC  
503 W Thurman Rd  
New Bern NC 28562

AMENDMENT TO PROTECTIVE COVENANTS  
CAROLINA COLOURS  
CERISE PHASE 1

THIS AMENDMENT TO PROTECTIVE COVENANTS, CAROLINA COLOURS, is dated for purposes of reference only this 1st day of May, 2007, and is submitted for recordation by Carolina Creek LLC, a North Carolina limited liability company (hereinafter "Declarant").

RECITALS:

Carolina Creek LLC has prepared a master development plan for a predominantly residential community named Carolina Colours, located in Craven County, City of New Bern, North Carolina. The development plan for Carolina Colours is set out in the Protective Covenants for Carolina Colours recorded in Book 2267, Pages 270 through 307, Craven County Registry ("Master Covenants"). Certain properties particularly described in the Master Covenants were subjected to its provisions upon its recordation. Declarant reserved the right, in Paragraph 2 of the Master Covenants, to subject described additional properties to the terms and conditions of the Master Covenants. Declarant further reserved the right to impose new or different development guidelines and restrictions on the additional properties made subject to the Master Covenants. The purpose of this Amendment to Protective Covenants ("Amendment") is to subject additional properties more fully described hereinafter to the terms and conditions of the Master Covenants, and to specify particular restrictions and easements applicable to the properties hereby annexed.

Therefore, the Master Covenants are hereby amended as follows:

1. Annexed Properties. The provisions of the Master Covenants shall apply fully to all of the property as shown on that

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plat of **Cerise at Carolina Colours**, including, without limitation, Lots 1 through 21, as well as all rights-of-way and other properties described thereon, said plat being recorded in Plat Cabinet H, Slides 91A and 91B, as amended by that plat recorded in Plat Cabinet H, Slides 91G and 91H, Craven County Registry. Said plat, as amended, shall herein be referred to as the "Plat." All of the terms and provisions of the Master Covenants, as previously amended, shall be fully binding and applicable to the property described on the Plat, except as specifically modified by this Amendment. The Lots shown on the Plat shall be referred to herein as "**Cerise Phase 1 Lots.**"

2. Minimum Building Requirements. No primary residential Structure located on any **Cerise Phase 1 Lot** numbered 1 through 8 shall contain less than 1800 heated square feet. If any primary residential Structure contains more than one living floor, there must be a minimum of 1500 square feet of heated space on the first living floor. No primary residential Structure located on any **Cerise Phase 1 Lot** numbered 9 through 21 shall contain less than 2200 heated square feet. If any primary residential Structure contains more than one living floor, there must be a minimum of 1600 square feet of heated space on the first living floor. Heated space shall only include fully enclosed space heated by the primary central heating system utilized for the primary residential Structure.

3. Set-backs: The minimum building set-backs shall be the greater of the set-backs shown on the Plat, or the following, as to Lots 1 through 8:

- |                             |         |
|-----------------------------|---------|
| a) Front (street) set-back: | 30 feet |
| b) Side set-back:           | 12 feet |
| c) Rear set-back:           | 30 feet |

The minimum building set-backs shall be the greater of the set-backs shown on the Plat, or the following, as to Lots 9 through 21:

- |                             |         |
|-----------------------------|---------|
| a) Front (street) set-back: | 40 feet |
| b) Side set-back:           | 15 feet |
| c) Rear set-back:           | 30 feet |

4. Impervious Surface Limitations: The maximum amount of impervious coverage (built upon area) of any Lot is set out on an exhibit hereto. Impervious materials include asphalt, gravel, concrete, brick, stone, slate, coquina or similar material, (including any such materials used on driveways or parking areas) but do not include raised, open wood decking or the water surface of swimming pools. Swales (whether roadside or in drainage easements) shall not be filled in, piped, or altered except that vegetated conveyances permitted with 3:1 slopes may be piped, but only as necessary to provide driveway crossings. No filling in, piping or altering any curb outlet swale permitted with a 5:1 slope shall be



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allowed. A 50 foot vegetated buffer must be maintained between all built upon area and the Mean High Water Level of all surface waters. All roof drains must terminate at least 50 feet from the Mean High Water line of any surface water.

Each designated curb outlet swale or 100 foot vegetated area shown on the permitted plan must be maintained by the Association at a minimum of 100 feet long, with a minimum 5:1 side slope (or flatter), have a longitudinal slope no steeper than 5%, and be maintained with a dense vegetated cover so as to carry the flow from a 10 year storm in a non-erosive manner. Such swales must be located in a recorded drainage easement. No Owner shall take any action that adversely impacts these requirements.

This covenant is intended to insure ongoing compliance with North Carolina State stormwater management permit SW7070309 as issued by the Division of Water Quality and can not be modified or deleted without the consent of the State of North Carolina by issuance of a permit amendment. The State of North Carolina and the City of New Bern are specifically given the right, by specific performance, to enforce the limitations and restrictions contained in this paragraph 4 of this Amendment.

The Association is specifically required to maintain any storm water collection, distribution or holding structures constructed in accordance with ordinances of, or permits issued by, the City of New Bern as relates to storm water management and discharge, and as relates to nitrogen reduction, whether or not said facilities are located on Common Elements or on Lots, if such structures are not maintained by the City of New Bern. The Association is also specifically directed to pay any inspection fees charged by the City of New Bern for inspection of such facilities and improvements.

5. Flood Zone: There is shown on the Plat the boundary between the X and the AE flood zone lines, as established by the Federal Emergency Management Agency (FEMA), in accordance with the flood maps issued by FEMA. Actual field surveys indicate that in certain Lots the location as shown on the flood maps is incorrectly located, and the proper line should be located along the "13 foot contour" line as shown on the Plat as to Lots 20 and 21. Amendments to the flood zone map have been requested by Declarant, and it is expected (but not guaranteed) that such amendments will be approved by FEMA. Upon issuance of such amendments, said relocated line shall be effective for all regulatory purposes, in lieu of the FEMA flood line as shown on the Plat. Declarant reserves the right to amend the Plat to properly show the correct flood zone lines, if and when FEMA approves map amendments.

6. Riparian Buffer Lots: **Cerise Phase 1** Lots 12 through 21 are subject to riparian buffer rules imposed by the State of North Carolina, in areas within the "50 foot buffer" shown on the



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Plat. The State of North Carolina has the right and authority to enforce these rules, which rules strictly limit the right to remove vegetation or construct structures within the area subject to riparian buffer rules. Areas designated on the Plat as "Wetlands" shall not be filled, nor shall structures be constructed therein.

7. Rental Limitations: No rental of any home within **Cerise Phase 1** shall be allowed that is for a term of less than six months.

8. Other Restrictions: Drainage Easements as shown on the Plat, other than the typical drainage easements described in paragraph 9.4 of the Protective Covenants, have been established in part in order to comply with certain restrictions regarding nitrogen reduction and/or stormwater management imposed by the City of New Bern and/or the State of North Carolina. No Lot Owner shall interfere in any way with the drainage within such easements or with drainage structures therein. Twenty foot drainage easements located along the joint property line between Lots 1 and 2 (and which continues through Lots 2 and 3), along the joint property line of Lots 12 and 13, along the joint property line of Lots 15 and 16, and along the joint property line of Lots 20 and 21, all as shown on the Plat, will likely contain low level structures to contain sediment and slow water flow. To the extent these specified easements, and the structures therein, are not maintained by the City of New Bern, they shall be maintained by the Association. The only obligation of the Lot Owner whose Lot is burdened thereby shall be to maintain ground vegetation in a slightly condition, to the extent such area is incorporated as part of the grassed or cleared area of the Lot by the Lot Owner. Drainage swales located on a public right of way adjoining the boundary of a Lot shall be maintained (mowed) by the Owner of the adjoining Lot, and the Owner of a Lot burdened with a drainage swale within a drainage easement on or adjacent to a street right of way (except of specified herein before) shall also maintain (mow) that portion of the swale and easement located on said Owner's Lot. The Owner of a Lot shall also be required to mow the area between said Owner's Lot and adjoining street pavement and/or sidewalks, regardless of whether or not such area contains a drainage swale. Declarant and the Association reserves the right to abandon drainage easements if their use is not required to comply with governmental requirements or is not otherwise necessary for proper drainage. No private use of said easements or swales for drainage or other purposes, other than normal runoff from Lots, may be made by the Owner of any Lot without consent of the Association.

No Lot within **Cerise Phase 1** shall be allowed direct driveway access from Creekscape Crossing. Lots within **Cerise, Phase 1** shall be allowed to have front loaded garages without necessity of issuance of a variance, but the garage doors must either be two, separate doors, or decorative doors approved by the Improvement Review Committee of the Association.



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**Cerise Phase 1** Lots 9 through 13 shall be considered "golf course Lots" for all purposes under the Covenants, including the payment of assessments, and shall be subject to any and all golf course easements set out in the Covenants.

9. Special Building Requirements and Limitations. No **Cerise, Phase 1** home shall contain any elevation that is predominately vinyl. This restriction shall not prohibit vinyl trim, windows or other accent or secondary use.

10. Telecommunications Services. **Cerise Phase 1 Lots** shall be provided the same telecommunications services as are provided from time to time to Sienna Woods Lots, as more fully described in the Master Covenants, as the same are amended from time to time, and the cost of such services shall also be the same. However, the Association has agreed to alter the free monitored services plan for security set out in paragraph 7 or Exhibit B, so the provisions set out therein are no longer in effect. The five foot private utility easement adjacent to the rights of way of **Creekscape Crossing** and **Cerise Circle** are for the exclusive use of the Telecommunications Provider as set out in the Master Covenants, and as referenced in paragraph 9.5 thereof.

11. Definitions. All definitions (capitalized words or phrases) contained in the Master Covenants are hereby incorporated within this Amendment by reference.

12. Survival. Except as specifically altered by this Amendment, all provisions of the Master Covenants, to the extent not limited therein to particular designated Lots, and as the same may have been previously amended from time to time, shall be fully applicable to all **Cerise Phase 1 Lots**, and the terms and conditions of the Master Covenants shall remain in full force and effect as to all Forest Reach Lots encumbered hereby and thereby.

SIGNATURE APPEARS ON FOLLOWING PAGE



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IN WITNESS WHEREOF, the undersigned have executed this instrument under authority duly given as of the day and year first above written.

CAROLINA CREEK LLC

BY: *Kenneth M. Kirkman* (SEAL)  
Kenneth M. Kirkman, Manager

STATE OF NORTH CAROLINA

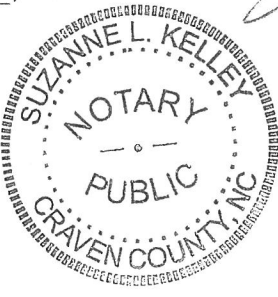
COUNTY OF CRAVEN

I, *Suzanne L. Kelley*, a Notary Public of the County and State aforesaid, certify that personally came before me this day Kenneth M. Kirkman and acknowledged that he is a Manager of Carolina Creek LLC, a limited liability company of the State of North Carolina, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by him, under seal.

Witness my hand and official stamp or seal, this *30* day of *April*, 2007.

*Suzanne L. Kelley*  
Notary Public

My Commission Expires:  
*Aug. 13, 2008*



Cerise phase 1 Covenants  
cc/cov;  
4/30/07



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PER HOMESITE IMPERVIOUS LIMITATION  
(SHOWN IN SQUARE FEET)

LOT	LIMITATION
1	5,255
2	5,775
3	6,000
4	6,000
5	6,000
6	6,000
7	6,000
8	6,000
9	6,647
10	6,363
11	8,000
12	7,360
13	8,000
14	8,000
15	8,000
16	8,000
17	8,000
18	8,000
19	8,000
20	8,000
21	8,000



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PER HOMESITE IMPERVIOUS LIMITATION  
(SHOWN IN SQUARE FEET)

LOT	LIMITATION
1	5,255
2	5,775
3	6,000
4	6,000
5	6,000
6	6,000
7	6,000
8	6,000
9	6,647
10	6,363
11	8,000
12	7,360
13	8,000
14	8,000
15	8,000
16	8,000
17	8,000
18	8,000
19	8,000
20	8,000
21	8,000



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