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503 W. THURSMAN Rd
NEW BERN NC 28522

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

PROTECTIVE COVENANT AMENDMENT
CAROLINA COLOURS
CERISE PHASE 3

THIS AMENDMENT TO PROTECTIVE COVENANTS, CAROLINA COLOURS, is dated for purposes of reference only this 15th day of October, 2015, and is submitted for recordation by OVERLOOK HOLDINGS LLC, a North Carolina limited liability company (hereinafter "Declarant").

RECITALS:

Carolina Colours is a predominantly residential community 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, as amended ("Master Covenants"). Certain properties particularly described in the Master Covenants were subjected to its provisions upon its recordation. Carolina Creek LLC, the initial Declarant, reserved the right, for itself and its successors in interest, in Paragraph 2 of the Master Covenants, to subject described additional properties to the terms and conditions of the Master Covenants. Carolina Creek LLC further reserved the right to impose new or different development guidelines and restrictions on the additional properties made subject to the Master Covenants. Overlook Holdings LLC has been assigned by Carolina Creek LLC all rights as Declarant, including the right to amend 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 plat of **Cerise Phase 3 at Carolina Colours**, including, without limitation, Lots 27 through 37, as well as all rights-of-way, Common Elements and other properties, if any, described thereon, said plat being recorded in Plat Cabinet I, Slides 69-C, D and E, (book 3391, pages 649-651) Craven County Registry. Said plat 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 3 Lots.**"

2. Minimum Building Requirements. No primary residential Structure located on any **Cerise Phase 3 Lot** 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 1,400 square feet of heated space on the first living floor, with a total of 2,000 square feet total. Heated space shall only include fully enclosed space heated by the primary central heating system utilized for the residential Structure.

3. Set-backs: The minimum building setbacks shall be the greater of the setbacks shown on the Plat, or the following:

- a) Front (street) setback: 40 feet
- b) Side setback: 15 feet
- c) Rear setback: 30 feet

4. Impervious Surface Limitations: The maximum amount of impervious coverage (built upon area) of each **Cerise Phase 3 Lot** is as follows: 6,330 square feet for Lots 27-28; 6,450 square feet for lot 29 and 7,800 square feet for Lot 30; and 8,000 square feet for Lots 31-37. 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 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 (by plat, deed or covenant). No Lot Owner shall take any action that adversely impacts these requirements.

This covenant is intended to insure ongoing compliance with the North Carolina State stormwater management permit as issued by the Division of Water Quality for **Cerise Phase 3 Lots** 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. Special building restrictions apply to construction within Flood Zone X, which restrictions are established by law. The building inspector for the City of New Bern should be consulted to determine particular restrictions should an election be made to construct improvements within Flood Zone X. To the extent that the location of any of such lines be corrected through a "LOMA" amendment approved by FEMA, such change shall be shown on a recorded amended plat for **Cerise 3 Lots**, and said amended plat shall, as to those Lots so impacted, shall be considered the Plat for all purposes.

6. Riparian Buffer Lots: **Cerise Phase 3 Lots 31-33, as well as Common Element 3**, are subject to riparian buffer rules imposed by the State of North Carolina, in areas within the "50 foot buffer" shown on the 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, without permits issued to be so by the State of North Carolina and/or the appropriate agencies of the Federal Government.

7. Rental Limitations: No rental of any home within **Cerise Phase 3** shall be allowed that is for a term of less than six months.

8. Other Restrictions: 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 Lot Owner of a Lot burdened with a drainage swale within a drainage easement on or adjacent to a street right of way (except as specified herein before) shall also maintain (mow) that portion of the swale and easement located on said Owner's Lot. The Lot Owner of a Lot shall also be required to mow the area between said Owner's Lot and any adjoining street pavement and/or sidewalks, regardless of whether or not such area contains a drainage swale. Declarant and the Association reserve the right to abandon drainage easements if their use is not required to



comply with governmental requirements or are not otherwise necessary for proper drainage. No Lot Owner without consent of the Association may make private use of said easements or swales for drainage or other purposes, other than to accommodate normal runoff from his or her Lot. There is a natural drain crossing Lots 34 and 35 that is not within a drainage easement shown on the Plat. Neither Lot Owner, when constructing improvements thereon, shall construct any structure or alter the natural flow of water thereon in any way that adversely impacts such flow. Piping shall be installed under any driveway crossing on such Lots as needed to allow such flow. The Carolina Colours Association Inc. may enforce this restriction upon recommendation of its Improvement Review Committee, but neither the Association nor the Committee shall have any liability in relation thereto.

9. Special Building Requirements and Limitations.

Front loaded garages are only allowed if the Committee grants a variance from the general prohibition against front loaded garages as contained in the Master Covenants. A variance will only be granted by the Committee if it finds, in its sole discretion, that the size, shape or topographical condition of the Lot makes use of a front loaded garage the most practical design approach to use on a particular **Cerise Phase 3 Lot**.

10. Telecommunications Services. **Cerise Phase 3**

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 monitored services plan for security set out in paragraph 7 or Exhibit B of the Master Covenants, so the provisions set out therein are no longer in effect. The five-foot private utility easement adjacent to the right of way of **Creekscape Crossing and Burlywood Lane** is for the exclusive use of the Association and its assigned Telecommunications Provider as set out in the Master Covenants, and as referenced in paragraph 9.5 thereof. The Association may change Telecommunications Providers from time to time, and may change the services to be provided by such Provider, as well as the compensation paid to them. If because of pricing or technology changes over time it is not believed by the Association to be feasible to continue to facilitate the provision of such



services, the Association may, after reasonable prior notice to Lot Owners, discontinue bulk services, in which case each Lot Owner shall be responsible for contracting for the provision of desired services to his or her Lot.

11. Booster Pumps. **Cerise Phase 3 Lots 29-33 and 36 and 37** must, when a home is constructed thereon, have installed a "S.T.E.P." system for wastewater on said Lot (or the adjacent right of way). Under applicable City of New Bern policies the City will install the required pump and electrical control panel, and will maintain such components. The Lot Owner will be responsible for installing the required tank, and maintaining it, and for the electrical service. The Lot Owner should be certain the building contractor engaged by the Lot Owner for construction of the home is fully aware of the requirement for installation of a S.T.E.P. system. This system is required to provide sufficient flow to propel wastewater to the City of New Bern wastewater collection, conveyance and treatment facilities. The Lot Owner will be responsible for the electrical service to operate the pump.

12. Common Elements. There are 3 common properties, denoted Common Elements 1, 2 and 3 on the Plat. Declarant shall deed all of the Common Elements to the Carolina Colours Association, Inc. no later than December 31, 2017. No structures (other than bench type structures) shall be constructed on Common Element 1 or 2. Common Element 3 may be improved from time to time to accommodate walking paths, creek access or similar passive recreational activities, and parking related thereto, but no living unit shall be constructed thereon, the only vertical structures permitting being for kayak shelters or gazebo type seating areas.

13. Definitions. All definitions (capitalized words or phrases) contained in the Master Covenants are hereby incorporated within this Amendment by reference, except that any reference therein to Declarant shall mean Overlook Holdings LLC.

14. 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 3 Lots**, and the terms and conditions of the Master

Covenants shall remain in full force and effect as to all Cerise Phase 3 Lots encumbered hereby and thereby.

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

OVERLOOK HOLDINGS LLC

BY:

[Signature] (SEAL)
Kenneth M. Kirkman, Manager

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

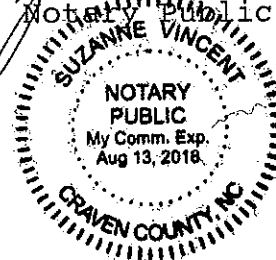
I, *Suzanne Vincent*, a Notary Public of the County and State aforesaid, certify that personally came before me this day Kenneth M. Kirkman and acknowledged that he is a Manager of OVERLOOK HOLDINGS LLC, a limited liability company of the State of North Carolina, and that by authority duly given and 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 day of *October 16*, 2015.

My Commission Expires:

Aug. 13, 2018

Suzanne Vincent
Notary Public



Cerise phase 3 Covenants
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