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J.P. Adams  
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**DECLARATION  
OF  
COVENANTS, CONDITIONS and RESTRICTION  
FOR  
SUTTON OAKS  
at OLDE SEDGEFIELD**

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**THIS DECLARATION** is made on the date hereinafter set forth by SUTTON OAKS, LLC, a North Carolina Limited Liability Corporation having an office in Guilford County, North Carolina, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Guilford, State of North Carolina, which is more particularly described on Exhibit "A" which is attached hereto and incorporated herein by reference.

WHEREAS, it is the intent of the Declarant hereby to cause the property described on the attached Exhibit A to be subject to this Declaration of Covenants, Conditions and Restrictions.

NOW, THEREFORE, Declarant hereby declares that all of the property described on the attached Exhibit A shall be held, occupied, used, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of such real property, and which shall run with such real property and be binding on all parties having any right, title or interest in such real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I**

**DEFINITIONS**

**SECTION 1. ASSOCIATION.** "Association" shall mean and refer to Sutton Oaks Homeowners Association, Inc., its successors and assigns.

**SECTION 2. OWNER.** "Owner" shall mean and refer to the record owner, whether one of more persons or entities, of a fee simple title to any Lot, as hereinafter defined, but excluding those having such interest merely as security for the performance of an obligation.

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SECTION 3. PROPERTIES. "Properties" shall mean and refer to the certain real property described on Exhibit A attached hereto, and such additions thereto as may hereafter be made in accordance with the provisions of Section 4 of this Article X below.

SECTION 4. COMMON ELEMENTS. "Common Elements" shall mean all real property owned by the Association. The Common Elements shall be owned for the common use and enjoyment of all of the Owners. The Common Elements to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

All of that area designated as "Common Elements" as shown on the plat entitled "Final Plat of Sutton Oaks at Olde Sedgefield Phase I, Map 1 and Map 2," which appears of record in the Office of the Register of Deeds of Guilford County, North Carolina, in Plat Book 159, Pages 136 and 137.

Additional Common Elements located within the Properties may be conveyed to the Association at any time in the sole discretion of Declarant, and such Common Elements shall be subject to the terms and conditions of this Declaration.

SECTION 5. MEMBER. "Member" shall mean and refer to every person or entity who hold membership with voting rights in the Association.

SECTION 6. DECLARANT. "Declarant" shall mean and refer to Sutton Oaks, LLC, as well as its successors and assigns, if Declarant shall make an express conveyance of its rights as developer hereunder to such successor or assign.

SECTION 7. LOT. "Lot" shall mean and refer to any separately numbered plot of land shown upon any recorded subdivision map of the Properties and shall not include any Common Element or any streets accepted for public maintenance.

**ARTICLE II**

**PROPERTY RIGHTS**

SECTION 1. OWNERS EASEMENTS of ENJOYMENT in COMMON ELEMENTS.

- a. Every owner shall have a right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot, subject to utility and other easements to which the Common Elements may be subject at the time of conveyance to the Association and subject to the following provisions:

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- (i) the right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument approved by at least two-thirds (2/3) of each class of Members, agreeing to such dedication or transfer, has been recorded;
- (ii) the right of the Association to impose regulations for the use and enjoyment of the Common Elements and improvements thereon, which rules and regulations may further restrict the use of the Common Elements;
- (iii) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving and/or maintaining the Common Elements and facilities thereon and providing the services authorized herein and in aid thereof to mortgage the Common Elements; provided, however, that no mortgage of the Common Elements shall be effective unless an instrument approved by at least two-thirds (2/3) of each class of Members, agreeing to such mortgage, has been recorded; and
- (iv) the right of the Association to exchange portions of Common Elements with the Declarant for substantially equal areas of the Properties for the purpose of eliminating unintentional encroachments of improvements onto portions of the Common Elements.

**SECTION 2. DELEGATION OF USE.** Any Owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Elements and facilities to the members of his family or his tenants who reside on the Lot of such Owner.

**SECTION 3. LEASES of LOTS.** Any lease agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions and the Articles of Incorporation and By-Laws of the Association and that any failure by the lessee to comply with the terms of any such document shall be a default under the terms of the lease. All leases of Lots

shall be in writing. Other than the foregoing there is no restriction on the right of any Owner to lease his Lot.

**ARTICLE III**

**MEMBERSHIP AND VOTING RIGHTS**

SECTION 1. MEMBERSHIP. All owners and Declarant shall be Members of the Association. Membership by Owners shall be appurtenant to and may not be separated from ownership of any Lot.

SECTION 2. VOTING RIGHTS. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners (other than Declarant prior to the conversion of the Class B membership described below). Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote or votes for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each lot owned by it shown on the Master Development Plat approved by The Guilford County Technical Review Committee, as the Plat is from time to time amended. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- a. when the total votes outstanding in the Class A membership equal the total votes in the Class B membership; or
- b. on December 31, 2010.

**ARTICLE IV**

**COVENANT FOR MAINTENANCE AND ASSESSMENTS.**

SECTION 1. CREATION of the LIEN and PERSONAL OBLIGATION of ASSESSMENTS. Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) annual assessments or charges, (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided and (3) a pro rata share of ad valorem taxes levied against the Common Elements and a pro rata share of assessments for public improvements to or for the benefit of the

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Common Elements if the Association shall default in the payment of either or both for a period of six (6) months, as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, as provided below in Section 8 of this Article IV, shall be a charge and continuing lien upon the real property and improvements thereon against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who is the Owner of such property on the date on which such assessment first becomes due and payable. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

SECTION 2. PURPOSE of ASSESSMENTS.

- a. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the facilities devoted to this purpose and related to the use and enjoyment of the Common Elements, including but not limited to, the costs of repairs, replacements and additions; the cost of labor, equipment, materials, management, and supervision; the payment of taxes assessed against the Common Elements; the maintenance of open spaces; the maintenance of any "sign easement" areas located on any Lot, as shown on recorded plat; the procurement and maintenance of insurance in accordance with the By-Laws; and Retention Pond maintenance; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other need as may arise. The Association shall be liable for the terms and conditions of the Retention Pond Maintenance Agreement dated March 11, 2004 and recorded in Book 6049, Page 830, in the Office of the Register of Deeds of Guilford County, North Carolina. At the time of the execution of the Declaration, Declarant does not contemplate the location within the Properties of active recreational amenities, such as swimming pools, tennis courts or clubhouses.
- b. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements and those other portions of the Properties which the Association may be obligated to maintain. Such reserve is to be established out of regular assessments for common expense.

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- c. All monies collected by the Association shall be treated as the separate Property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Properties, or to the proper undertaking of all acts and duties imposed upon it by virtue of the Declaration of the Articles of Incorporation or By-Laws of the Association. As monies for any assessment are paid to the Association by the Owners, the same may be commingled with monies paid to the Association by other Owners. Although all funds are common, including other assets of the Association, and any increments thereto or profits derived therefrom, shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When an Owner shall cease to be a Member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

**SECTION 3. MAXIMUM ANNUAL ASSESSMENT.** Until December 31 of the year of the conveyance of the first Lot to an Owner, the Maximum annual assessment shall be Four Hundred (\$400.00) per Lot, and may be collected in monthly, quarterly, semi-annual or annual installments.

- a. The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter shall be established by the Board of Directors and may be increased by the Board of Directors without approval by the membership by an amount not to exceed fifteen percent (15%) of the maximum annual assessment of the previous year.
- b. The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter may be increased without limit by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at the meeting duly called for this purpose.

- c. The Board of Directors may fix the annual assessment to an amount not in the excess of the maximum, subject to the provisions of Section 6 of this Article.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVMENTS. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

The Association shall be liable for any special assessment as provided for in the Pond Retention Agreement recorded in Book 6049, Page 830 in the Office of the Register of Deeds of Guilford County, North Carolina.

SECTION 5. NOTICE and QUORUM for any ACTION AUTHORIZED UNDER SECTION 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article IV shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies entitled to cast sixty percent (60%) of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. RATE of ANNUAL ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots that are subject to assessments and may be collected on a monthly, quarterly, semiannual or annual basis.

SECTION 7. DATE and COMMENCEMENT OF ANNUAL ASSESSMENTS DUE DATES. The annual assessments provided for herein may be collected on a monthly, quarterly, semiannual or annual basis and shall commence as to a Lot on the first day of the month following the conveyance of that Lot to someone other than Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment and thereafter shall send written notice thereof to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

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SECTION 8. EFFECT of NONPAYMENT OF ASSESSMENTS: REMEDIES of the ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosures of Deeds of Trust, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Elements or abandonment of his Lot nor shall damage to or destruction of any improvement on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

SECTION 9. EFFECT of DEFAULT in PAYMENT of AD VALOREM TAXES or ASSESSMENTS for PUBLIC IMPROVEMENTS by ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Elements or assessments for public improvements to the Common Elements, which default shall continue for a period of six (6) months, each Owner of a Lot shall become personally obligated to pay the taxing or assessing governmental authority a portion of such unpaid taxes and/or assessments due the governmental authority by the total number of Lots. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

SECTION 10. SUBORDINATION of the LIEN to MORTGAGES. The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to the foreclosure thereof of any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinated to the lien of any first mortgage or deed of trust.

SECTION 11. EXEMPT PROPERTY. All property dedicated to and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.



ARTICLE V

LANDSCAPE EASEMENT

SECTION 1. LANDSCAPE EASEMENT. The areas noted as "Landscape Easement" on the recorded plats shall be subject to the following provisions.

- (i). The area in the landscape easement shall be maintained in its natural state. No live trees, and shrubs, or other vegetation shall be removed except with the approval of the Architectural Control Committee. Each owner shall maintain the landscape easement located on his lot. The Owner shall remove dead trees, dead shrubs, and debris from the landscape easement area.
- (ii) No building, fence or other structure shall be built or placed within the landscape easement along Suttonwood Drive. No building or other structure except a fence may be built or placed within the landscape easement in all other areas of the subdivision. Before any fence is built or placed within the landscape easement where fences are allowed, the owner shall submit the plans and specification for the fence and the trees and shrubs which Lot owner proposes to cut and remove.

ARTICLE VI

ARCHITECTURAL CONTROL

SECTION 1. IMPROVEMENTS. No building, fence, wall or other structure, planting or landscaping shall be commenced, erected or maintained or allowed to remain upon any Lot, nor shall any exterior addition to or change or alteration therein, including, without limitation, any planting or landscaping, be made until the plans and specification therefore (which shall be required to show, by way of illustration and not limitation, the nature, kind, shape, height, materials and location of all such items) shall have been submitted to and approved in writing as to all matters including, without limitation, harmony of external design, location, landscaping and elevation in relation to surroundings structures, lot size and shape and topography by the Board of Directors of the Association, or by an Architectural Control Committee composed of three (3) representatives appointed by the Board (the "Architectural Control Committee"). Provided that nothing herein contained shall be construed to permit interference with the development of the Properties by the Declarant so long as said development follows the general plan of development of the Properties previously approved by Guilford County.

SECTION 2. PROCEDURES. Any person desiring to make any improvement, alteration or change described in Section 1 above shall submit the plans and specifications therefore, showing such matters in such detail as the Board of Directors of

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the Association or the Architectural Control Committee shall require, including without limitation a detailed showing of the nature, kind, shape, height, materials and location of the same, to the Board of Directors of the Association or the Architectural Control Committee which shall evaluate such plans and specification in light of the purpose of this Article VI. In the event the Board of Directors of the Architectural Control Committee fails to approve, modify or disapprove in writing an application within sixty (60) days after plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have fully complied with. If any improvement, change or alteration requiring approval pursuant to this Article V is not commenced within thirty (30) days of its approval (or the expiration of the 60-day period referred to above, if applicable), it shall, once again, be subject to the approval provisions set forth above. In addition, all such improvements, changes and alterations shall be diligently pursued to completion and, and in any event, construction, change or alteration of dwellings and other improvements shall be completed within six (6) months of commencement of grading or other construction work, with all initial landscaping to be completed within 20 days immediately following such completion.

## ARTICLE VII

### EXTERIOR MAINTENANCE

Each Owner shall be responsible for all of the exterior maintenance of his or her dwelling, other improvements and Lot, including the painting, replacement and care of roofs, gutters, downspouts and exterior surfaces of buildings and other improvements, and the maintenance and care of the lawn, trees, shrubs, driveways, walks and other exterior improvements. In the event that any Owner neglects or fails to maintain his Lot and/or the exterior of his dwelling in a manner consistent with other Lots, dwellings or other improvements in Sutton Oaks, the Association may provide such exterior maintenance. However, the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance himself. The determination as to whether an Owner has neglected or failed to maintain his Lot and/or dwelling or other improvements in Sutton Oaks shall be made by the Board of Directors of the Association, in its sole discretion. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

In the event the Association performs such exterior maintenance, repair or replacement, the cost of such maintenance, replacement or repairs shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VIII

USE RESTRICTIONS

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SECTION 1. LAND USE and BUILDING TYPE. No Lot shall be used except for residential purposes, except for temporary uses thereof by Declarant for Declarant's sales office and/or model. No structures shall be erected or allowed to remain on any Lot except one detached single-family dwelling not exceeding in two stories and an attic (finished or unfinished) in height, a basement (finished or unfinished) and either an attached garage or an attached carport closed on the front facing the street and permitting entry of cars from the side or back only.

SECTION 2. DWELLING SPECIFICATIONS. No dwelling shall be erected or allowed to remain on a Lot if (a) the ground floor area of the main structure, exclusive of open porches and decks and of garages and carports, shall be less than three thousand (3000) square feet of finished heated floor area in the case of a one-story structure less than three thousand one hundred (3100) square feet of finished heated area, in the case of a one and one-half story structure, or less than three thousand three hundred (3300) square feet of finished heated floor area in the case of a two-story structure.

SECTION 3. NUISANCE. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

SECTION 4. ANIMALS. No animals, livestock or poultry of any kind shall be kept or maintained on the Common Elements or on any Lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and further provided that they are kept and maintained in compliance with (i) all laws and ordinances of the State of North Carolina and Guilford County relating thereto, and (ii) such rules and regulations pertaining thereto as the Board of Directors may adopt from time to time.

SECTION 5. OUTSIDE ANENNAS. No outside radio or television antennas or discs shall be erected on the Common Elements or on any Lot or dwelling within the Properties unless and until permission for the same has been granted by the Board of Directors of the Association or the Architectural Control Committee.

SECTION 6. PARKING. Each Lot shall contain sufficient off street paved parking space for at least three (3) motor vehicles. Motor vehicles shall mean automobiles, and trucks of not more than one (1) ton capacity. No automobiles, or trucks, motorcycles, recreational vehicles or boats shall be parked on any street within the Properties. Boats, trucks, (excluding one ton capacity), trailers, vans, recreational or commercial vehicles, campers and other equipment or vehicles, shall not be parked or stored in any area (including driveways) on a Lot except inside an enclosed garage or carport attached to the main dwelling.

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SECTION 7. RESUBDIVISION of LOT, STREETS and FENCES. No Lot shall be resubdivided into a Lot smaller than or different from the Lot shown on the recorded plat, except with the written consent of Declarant. No street shall be laid or opened across or through any Lot. No fence shall be erected or allowed to remain on any Lot nearer to any street abutting the front of any Lot than the front building lines of the dwelling located on such Lot. No chain link fencing shall be permitted. No fence can exceed five feet in height.

SECTION 8. DRIVEWAYS, WALKWAYS, PUMPS, AIR CONDITIONERS, MAIL BOXES, ROOFS, SWIMMING POOLS, and SOLAR PANELS. Unless otherwise specifically permitted by the Board of Directors or the Architectural Control Committee of the Association, (a) each improved Lot shall contain a paved driveway as well as a paved walkway leading from the front door of the main structure to the driveway; (b) all pumps for lawn sprinkling and other purposes and all air conditioners and other HVAC equipment shall be screened from view; (c) owners shall use mailboxes and front yard lamp post lighting pre-selected by the Declarant; (d) the roof pitch of any structure may not be less steep than "8:12"; (e) there shall be no above-ground swimming pools; and (f) solar heating panels shall be installed in such a manner as not to be visible from any street or Common Elements.

SECTION 9. BUILDING SETBACK. No building shall be located on any Lot nearer than the minimum setback line as shown on the recorded plat or as provided in a deed conveyance for said Lot, or nearer than ten (10) feet to any interior side Lot line, nearer than thirty (30) feet to any rear, side or landscape easement. No building shall be located nearer than twenty-five (25) feet to any side street line. For the purpose of this paragraph, eaves, steps and open porches shall not be considered as part of a building; provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon any other Lot. In the event of a violation of these building line restrictions, the Declarant may waive any such violation by an appropriate written instrument. The Board of Directors or the Architectural Control Committee of the Association may require greater setbacks in their sole discretion.

SECTION 10. MOBILE HOMES, MANUFACTURED HOMES, ETC. No mobile home, manufactured home, modular home, trailer, recreational vehicle or other like structure shall be located or installed on any Lot to be used as a residence. Unless the Board of Directors or Architectural Control Committee of the Association shall, in its sole discretion, define such terms differently, as used in this Section 10, mobile home, manufactured home or modular home shall mean a structure, assembled in whole or in part in a location other than on the Lot itself, transportable in one or more sections, any section of which, during transport, is four (4) feet or more in width and ten (10) feet or more in length, which may or may not be built on a permanent chassis and which is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

SECTION 11. SIGNAGE. No sign shall be erected or maintained on any Property by anyone including, but not limited to, an Owner, a tenant, a realtor, a contractor, or a

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subcontractor, until the proposed sign, size, color, content, number of signs, and location of sign(s) shall have been approved in writing by Declarant. The Declarant and its agent shall have the right and easement, whenever there shall have been placed or constructed on any Property in Sutton Oaks any sign, which is in violation of these restrictions, to enter immediately upon such Property where such violation exists and summarily remove the same at the expense of the Owner.

Declarant may assign the rights and obligations set forth herein to the Association by written instrument recorded in the Office of the Register of Deeds of Guilford County, North Carolina.

## ARTICLE VIII

### EASEMENTS

SECTION 1. UTILITIES. Easements for installation and maintenance of utilities (including cable television service) and drainage facilities are reserved as indicated on recorded plats. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of Guilford County and City of Greensboro (as any other person or firm providing services to the properties under agreement with or at the direction of the Association) over all Common Elements as may be reasonably necessary for the setting, removal and reading of water meters, and the maintenance and replacement of water, sewer and drainage facilities and for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over and across the Common Elements such additional easements as are necessary or desirable for the providing of service utilities to the Common Elements or Lots.

SECTION 2. LANDSCAPE EASEMENT. Easements for the maintenance of subdivision signs and landscaping and lighting surrounding same, if any, are reserved as indicated on the recorded plat. Declarant hereby grants, gives and conveys to the Association a perpetual, non-exclusive easement over the portions of Lots, if any, designated as "landscape easements" on the plats, to maintain, repair and replace the subdivision signs or landscape which may be located thereon, and the lighting fixtures and landscaping surrounding same. The costs of all such maintenance, repair and replacement shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof. In addition to the easement granted above as to any portion of Lots designated "landscape maintenance easements," Declarant hereby gives, grants and conveys to the Association the right of ingress, egress and regress over other portions of such Lots as shall be reasonably necessary to effectuate the purposes

stated above. The easements hereby granted shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or part of the Properties.

## ARTICLE IX

### RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

#### SECTION 1. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS.

"Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

SECTION 2. OBLIGATION of ASSOCIATION to INSTITUTIONAL LENDERS. So long as any Institutional Lender shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

- (a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Board of Directors of the Association, such financial statement or report to be furnished by April 15 of each calendar year.
- (b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration of Covenants, Conditions and Restrictions or the Articles of Incorporation or By-Laws of the Association or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association.
- (c) To receive notice of any condemnation or casualty loss affecting the Common Elements or any portion thereof.
- (d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (e) To have the right to approve of any alienation, release, transfer, hypothecation or other encumbrance of the Common Elements, other than those specific rights vested in the Association under Article II hereof.

- (f) To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days by Owner owning a Lot encumbered by a mortgage held by the Institutional Lender, or to the place which it may designate in writing.

SECTION 3. REQUIREMENTS of INSTITUTIONAL LENDER. Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish in written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation, and identifying the Lot or Lots upon which any such Institutional Lender holds any first lien or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

## ARTICLE X

### GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration or of the Articles of Incorporation or By-Laws of the Association against any person or persons violating or attempting to violate any of the same, either to restrain violation to recover damages or both. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Properties to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

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

SECTION 3. DURATION; AMENDMENT. The covenants, restrictions and other provisions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date that this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless during the last year of such initial or then current renewal period seventy-five percent (75%) of the Owners shall agree in writing to terminate this Declaration at the expiration of the then current terms hereof. The Declaration may be amended during the first twenty (20) year period by an instrument executed by not less than ninety percent (90%) of the Owners, and thereafter by an instrument executed by not less than seventy-five percent (75%) of the Owners, provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. Any amendment or termination of this Declaration must be properly recorded.

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SECTION 4. ANNEXATION.

- (a). Except as provided in subparagraph (b) below, additional residential property and Common Elements may be annexed to the Properties only with the consent of two-thirds (2/3) of each class of Members.
- (b). If Declarant shall develop additional lands adjoining the boundaries described in Exhibit B attached hereto and incorporated herein by reference on or before December 31, 2006, such additional lands may be annexed to Sutton Oaks and made subject to this Declaration without the consent of Members. Declarant may annex to Sutton Oaks any additional lands by recording in the Guilford County Registry, a Declaration of Amendment of this Declaration, duly executed by Declarant, describing the land annexed and incorporating the provisions of the Declaration. Such additional land shall be annexed to Sutton Oaks on the date of recordation of such Declaration or Amendment to this Declaration, and no other action or consent shall be necessary. Subsequent to the recordation of such Declaration or Amendment by Declarant, Declarant shall deliver to the Association one or more deeds conveying any property that is designated as "Common Elements," "Restricted Common Elements" or "Open Spaces" within the lands annexed.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed and sealed this 7<sup>th</sup> day of June, 2005.

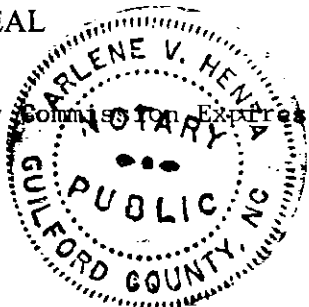
SUTTON OAKS, LLC.

By: [Signature]  
Keith D. Badorf, Manager

NORTH CAROLINA  
GUILFORD COUNTY

I, Arlene V. Henza a Notary Public for said county and state, do hereby certify Keith D. Badorf, personally came before me this day and acknowledged that (s)he is the Manager of Sutton Oaks, LLC, a Limited Liability Company, and that by authority duly given and as the act of the Limited Liability Company, the foregoing instrument was signed in its name by its Manager. WITNESS my hand and official seal, this 7<sup>th</sup> day of June, 2005.

SEAL



My Commission Expires: March 26, 2010

Notary Public  
Signature Arlene V. Henza



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EXHIBIT A

BEING all of the property shown on the Plat entitled "Sutton Oaks at Olde Sedgfield, Phase I, Maps 1 and 2 as recorded in Plat Book 156, Pages 136 and 137 in the office of the Guilford County Register of Deeds and any additional phases of Sutton Oaks at Olde Sedgfield which may be subsequently recorded.

102596



JEFF L. THIGPEN, REGISTER OF DEEDS  
GUILFORD COUNTY  
201 SOUTH EUGENE STREET  
GREENSBORO, NC 27402

\* \* \* \* \*

State of North Carolina, County of Guilford

The foregoing certificate of Arlene V Henza

A Notary (Notaries) Public is/are certified to be correct. This instrument and this certificate are duly registered at the date and time shown herein.

JEFF L. THIGPEN, REGISTER OF DEEDS

By: Meredith A. Upance  
Deputy - Assistant Register of Deeds

\* \* \* \* \*

**This certification sheet is a vital part of your recorded document.  
Please retain with original document and submit when re-recording.**