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FOR REGISTRATION REGISTER OF DEEDS  
REBECCA P. SMITH  
NEW HANOVER COUNTY, NC  
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**INSTRUMENT # 2007039884**

**STATE OF NORTH CAROLINA**

**COUNTY OF NEW HANOVER**

**DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CITRUS COVE SUBDIVISION**

**This Declaration**, made this 7th day of August 2007, by **CITRUS COVE, LLC**, A North Carolina Limited Liability Company, hereinafter referred to as "Declarant";

WHEREAS, Declarant is the owner of certain property in New Hanover County, North Carolina, Which is more particularly described as follows:

SEE EXHIBIT "A" ATTACHED AND MADE A PART HEREOF

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to Chapter 47F of the General Statutes of North Carolina known as the North Carolina Planned Community Act and subject to the following easements, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

Some of the following Covenants are intended to insure ongoing compliance with North Carolina State Stormwater Management Permit Number SW 8061107 as issued by the Division of Water Quality under NCAN 2H.1000. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit. The covenants are to run with the land and be binding on all persons and parties claiming under them. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the

**DRAWN BY: CALDER & CALDER, ATTORNEY      RETURN TO: CALDER & CALDER, ATTORNEYS**

State of North Carolina Division of Water Quality. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality.

## ARTICLE I DEFINITIONS

As used herein, the following terms shall mean:

Section 1. ASSOCIATION shall mean and refer to CITRUS COVE HOA, INC., a North Carolina non-profit corporation, its successors and assigns, the owners' association organized for the mutual benefit and protection of all the Properties, within Citrus Cove Subdivision, as expanded from time to time, herein after referred to as the Properties. All property owners of lots in CITRUS COVE SUBDIVISION and any adjoining areas hereinafter developed and subjected to this declaration, if any, shall be members of the association, which membership shall be appurtenant to and may not be separated from the ownership of each single family or multi family lot.

Section 2. ARCHITECTURAL REVIEW COMMITTEE (or Architectural Control Committee) shall mean and refer to a committee of no less than three, and no more than five, Lot owners elected at an annual meeting of the Association, or at a Special Meeting duly called for that purpose. The initial committee shall be elected at a special meeting called for that purpose after the period of Developer control has ended. The committee shall, after the period of Declarant control, exercise the architectural review and controls established by this Declaration, and all amendments hereto.

Section 3. OWNER shall mean and refer to the record owner(s), whether one or more persons or entities, of fee simple title to any lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. PROPERTIES shall mean and refer to all of CITRUS COVE SUBDIVISION as described above, and any additional properties that may hereafter be brought within the jurisdiction of the Association as herein provided.

Section 5. ADDITIONAL PROPERTIES shall mean and refer to any lands adjoining the Properties or within a one-mile radius thereof, which now are owned or may be hereafter acquired or developed by the Declarant and annexed to and made a part of the properties by the Declarant and subjected to this declaration. No additional properties may be annexed without prior approval of HUD/VA, if so required. The annexation of such additional properties shall become effective by the recording in the New Hanover County Registry by the Declarant of an amended declaration for each new section annexed.

Section 6. COMMON AREA shall mean and refer to all real property owned by the Association for the common use and enjoyment of the owners, specifically including

all roads, streets, drives and rights of way in Citrus Cove Subdivision. The common area to be owned by the Association at the time of the conveyance of the first lot shall be all the area designated as “common area”, “open area”, “recreational area” “active recreational area”, “passive recreational area”, and “green space”, if any, on the plat or plats of CITRUS COVE SUBDIVISION recorded, or to be recorded, in the New Hanover County Registry. The term shall also include any additional property or Lot later designated as Common Area by the Declarant, as provided for herein, and any detention, and/or retention pond(s) located within the subdivision.

Section 7. COMMON EXPENSES means expenditures made by or financial liabilities of the Association, together with any allocations to reserves. Common Expenses specifically include costs for maintaining and insuring any retention, and/or detention pond(s), and all roads, streets, drives and rights of way in CITRUS COVE Subdivision, as expanded from time to time.

Section 8. DECLARANT shall be used interchangeably with Developer (which shall include singular, plural, masculine and neuter as required by the context) and shall mean and refer to CITRUS COVE, LLC, and its successors and assigns, if such successors and assigns should acquire the remaining undeveloped property in CITRUS COVE Subdivision from the Declarant for the purpose of development.

Section 9. DECLARATION shall mean this instrument as it may be from time to time amended or supplemented.

Section 10. EXECUTIVE BOARD shall be used interchangeably with the board of directors and means the body, regardless of name, designated in this Declaration or otherwise to act on behalf of the association.

Section 11. MEMBERSHIP shall mean and refer to every person or entity that has a membership in the Association.

Section 12. SPECIAL DECLARANT RIGHTS means rights reserved for the benefit of the Declarant including without limitation the right (i) to complete improvements intended or planned by Developer for the property or additional property; (ii) to exercise any development or other right reserved to the Declarant by this Declaration of otherwise; (iii) to maintain within the Planned community sales offices, management offices, construction offices/trailers, signs advertising the Planned community, and models; (iv) to use the common elements for the purpose of making improvements within the planned community; (v) to make the planned community part of a larger planned community or group of planned communities; (vi) to make the planned community subject to a master association; (vii) to appoint or remove any officer or executive Board member of the Association or any other Master Association during the Declarant control period; (viii) to maintain Architectural Control until such time as Declarant sells or transfers all Lots in the subdivision; and (ix) to delegate any or all of the Declarant’s rights permanently or for limited time periods.

Section 13. LIMITED COMMON AREAS AND FACILTIES CITRUS COVE Subdivision has no Limited Common Area, but if it ever does, it will be for the use of all Lot Owners.

Section 14. ADDITIONAL SPECIAL DECLARANT RIGHTS. Declarant reserves the right, in its sole discretion, to construct improvements, or to allow construction of improvements, including, but not limited to, a swimming pool and related facilities, upon a portion of the Common Area. Upon completion of such improvements Association Dues shall be recalculated to include the costs of insuring and maintaining such improvements.

## ARTICLE II PROPERTY RIGHTS AND EASEMENTS

Section 1. Owners Property Rights and Easement of Enjoyment. Every owner shall have and is hereby granted a right and easement of enjoyment in and to the common areas, if any, and all roads, streets, drives and rights of way in Citrus Cove Subdivision, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

A. The Declarant, and after the period of Declarant control, the Association may make and amend reasonable rules and regulations governing use of the common elements by the owners and non-owner members;

B. The right of the Declarant, and after the period of Declarant control, the Association to suspend the voting rights and privileges of an owner for any period during which any assessment against his lot remains unpaid and for a period not to exceed (60) days for any violation of its published rules and regulations;

C. The Declarant, and after the period of Declarant control, the Association may grant a security interest in or convey the Common areas, or dedicate or transfer all or part of the common areas, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by at least (80%) eighty percent of the members, excluding the developer; provided, however, that the Declarant, and after the period of Declarant control, the Association may without the consent of the Owners grant easements, leases, licenses and concessions through or over the common areas. No conveyance or encumbrance of common elements shall deprive any Lot of its rights of access or support.

D. The right of the Declarant, and after the period of Declarant control, the Association to impose regulations for the use and enjoyment of the common areas, if any, and improvements thereon, which regulation may further restrict the use of the common area.

Section 2. Easements in Favor of Declarant and The Association. The following easements are reserved to Declarant and the Association, their agents, contractors, employees, successors and assigns:

A. The Declarant reserves the unto itself, its successors and assigns, a perpetual, alienable, and releasable easement and right of way, on, over, and under the ground for men and equipment to erect, maintain, inspect, repair, and use electric and telephone pole, wires, cables, conduits, fences, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveyances or utilities on, in of over each lot, the rights of way of roads and streets, and such other areas as are shown on the plat, of the properties recorded or to be recorded in the office of the Register of Deeds of New Hanover County, provided further, that the Declarant may cut drain ways for surface water whenever such action may appear to the Developer to be necessary in order to maintain reasonable standards of health, safety, and appearance. These easements and rights of way expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Declarant further reserves the right to locate wells, pumping stations, and tanks within residential areas on any walkway, or on any residential lot now or subsequently designated for such use or to locate same upon any lot with the permission of the owner of such lot. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility of service.

B. The developer reserves the right to subject the real property in this subdivision to a contract with the Progress Energy, their successor or assigns, for the installation of street lighting, which requires a continuing monthly payment to such utility company by each residential customer.

C. Easements are hereby granted and reserved over all private streets and roads, access easements, and the common areas within the planned community as necessary to provide access, ingress and egress to and the installation of utilities for any property within Nautical Greens at The Cape.

D. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the Declarant and the Association, their successors and assigns, and any owner, purchaser, Mortgagee, and other person having an interest in the Planned Community, or any part or portion thereof, regardless of whether or not reference is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this declaration.

ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot shall be a member of the association. Membership 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 memberships

1. Class "A". Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Unit owned. When more than one person holds an interest in the Unit, all such persons shall be members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit.

2. Class "B". The Class B member shall be the Declarant and shall be entitled to three (3) votes for each unit constructed. The Class B membership shall automatically terminate upon the happening of either of the two following events, which ever occurs earliest:

(a) Upon the closing of the sale of 75% of all units in all sections, on both a by section basis and an overall basis in the development, or

(1) ten years after the sale of the first unit, or January 1, 2018, whichever occurs first.

In the event of a stalemate with respect to any matter required to be submitted to a vote of the members of the ASSOCIATION the matter shall be submitted to binding arbitration in accordance with Article XIII herein.

ARTICLE IV  
MANAGEMENT AND CONTROL

Management for the affairs of the Association, excepting architectural control, shall be the right and responsibility of its board of directors in accordance with the declaration and the by-laws; PROVIDED, HOWEVER, that all of the powers and duties of the Board of Directors may be exercised by the Declarant until such time as 75% of the lot have been sold and conveyed by the Declarant to purchasers or until January 2010, whichever occurs first. Management and control may be transferred to the lot owners at any time but no later than 36 months after the happening of either of the above events. The Developer may maintain architectural control until all lots have been sold, or until such control shall be expressly relinquished to the Association in writing, whichever occurs earliest.

ARTICLE V

## COVENANTS AND ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each lot owner covenants and agrees to pay to the Association the following assessments (collectively the “assessments”):

- A. Annual assessments.
- B. Special assessments.
- C. Penalty assessments.
- D. Insurance assessments.
- E. Ad valorem Tax assessments.
- F. Working capital assessments.

These assessments together with interest, costs, and reasonable attorney’s fees, shall be a charge on the land and shall be a continuing lien upon the respective Lot against which the charges are assessed. Such charges and reasonable attorney’s fees shall also be the personal obligation of the person who was the owner of such lot at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to the owner’s successors in title unless expressly assumed by them, or a lien for such charges has been filed in the Office of the Clerk of Court of New Hanover County prior to transfer of title to such successor; however, such charges remain a lien on the Lot, in any event.

Section 2. Purpose Of Annual Assessments. The annual assessments levied by the association shall be used to promote the recreation, health, safety and welfare of the owners and residents of the planned community and for the maintenance, repair, and replacement of the common elements, any limited common elements, any repairs or reconstructions of units required or allowed by this Declaration, and any retention/detention pond(s) located within the subdivision. The funds arising from said assessments of charges, may be used for, but is not limited to, any or all of the following purposes: Operations, maintenance and improvements of the common areas, including all private roads, streets and rights-of-way, and any limited common areas, including payment of utilities, enforcing this declaration: paying taxes, insurance premiums, legal and accounting fees and governmental charges: establishing working capital: paying dues and assessments to any organization or master association of which the Association is a member, and in addition, doing any other things necessary or desirable in the opinion of the Association to keep the common areas and limited common areas in good operating order and repair.

Section 3. Annual Assessments. Annual assessments shall be in an amount to be fixed from year to year by the Board of Directors which may establish different rates from year to year as it may deem necessary for the purposes set forth in Section 2 above. The amount of the annual assessment against each lot for any given year shall be fixed at least 30 days in advance of the annual assessment period, provided, however that the first annual assessment shall be set prior to the conveyance of the first lot to an owner at or prior to the closing of their lots. Written notice of each annual assessment thereafter shall

be sent to every owner subject thereto. The due date shall be established by the Board of Directors, and the Board of Directors shall have the authority to require the assessments to be paid in pro rata monthly installments. 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 specific lot have been paid. The Initial Dues are set at \$300.00 per year, and may be billed monthly, \$25.00 per month, quarterly, \$75.00 per quarter, or annually at \$300.00 per year.

At such time as a pool, clubhouse, or other improvements are constructed, if ever, on the common area, the annual dues may increase.

Section 4. Initial Working Capital Assessment. Each purchaser of a lot from the Declarant, or its successor, shall pay to the Association a Working Capital assessment of \$100.00.

Section 5. Special Assessments For Capital Improvement. In addition to the annual assessments authorized above, the association may levy, in any assessment year, a special assessment applicable to the year only for the purpose of defraying in whole or in part, the cost of any common area improvements or maintenance. Any such assessment shall have the assent of two-thirds of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Insurance Assessments. The Board of Directors on behalf of the Association as a common expense, shall at all times keep the property of the Association, if any, insured against loss or damage by fire or other hazards and other such risks, including, but not limited to, directors' liability and public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect the Properties and common area, which insurance shall be payable in case of loss to the Association for all the members. The Association shall have the sole authority to deal with the insurer in the settlement of all claims. Such insurance shall be obtained without prejudice to the right of each member to insure his personal property for his own benefit at his own expense. In no event shall the insurance purchased by the members or their mortgagees. The Association reserves the right to assess members in an amount sufficient to pay the cost of all such deductibles and insurance premiums not included as a component of the annual assessment. These insurance assessments shall include but are not limited to Ad valorem tax assessments.

Section 7. Penalty Assessments. The Association may charge Penalties for violation of these Covenants, and Late Payment Penalties for any assessment not paid within 30 days of its due date. Violation Penalties may range from \$50.00 to \$150.00 per occurrence, and may be assessed on daily, weekly, or monthly basis for failure to cure the violation. Late Payment penalties shall be \$25.00, and may be assessed monthly until the assessment, and penalties are brought current.

Section 8. Rate of Assessment. The Association may differentiate in the amount of Assessments charged when a reasonable bases for distinction exists, such as between

vacant lots and those with completed structures which can legally be occupied, or when any other substantial difference exists between lots. However, Assessments must be fixed at a uniform rate for all lots similarly situated.

Section 9. Commencement of Assessments. Assessments for each lot shall commence **upon the date of closing by an owner from the Declarant**.

Section 10. Effect of Nonpayment of Assessments and 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 highest interest rate allowable by law. The Association may bring an action at law against the owner personally obligated to pay the same, and/or foreclose the lien against the property and may pursue any other legal or equitable remedy available. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common area or by abandoning his lot. The association may also establish and collect late fees for delinquent installments.

Section 10. Lien for Assessments. The Association may file a lien against a lot when any assessment levied is left unpaid for a period of 30 days or longer.

A. The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of New Hanover County. 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. The Trustee for such foreclosure shall be a person or entity appointed in writing by the Board or Officers of the Association. Fees, charges, late charges fines, interest, reasonable attorney's fees, and other charges imposed pursuant to Sections 47F-3-102, 47F-3-107, 47F-3-107.1 and 47F-3-115 of the Act are enforceable as Assessments.

B. The lien under this section shall be 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.

C. The lien for unpaid assessments is extinguished unless proceedings to enforce the tax lien are instituted within three years after the docketing of the claim of lien in the office of the Clerk of the Superior Court.

D. Any judgment, Decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

E. Where the holder of a first mortgage or 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 deed of trust, such purchaser and its heirs, successors and assigns shall not be liable for the Assessments against the Lot which became due prior to the acquisition of title to the Lot by such purchaser. The unpaid assessments shall be deemed to be common expenses

collectible from all of the Lot Owners including such purchaser, its heirs successors or assigns.

F. A claim of lien shall set forth the name and addresses 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.

## ARTICLE VI RIGHTS OF DEVELOPER

The Declarant shall have, and there is hereby reserved to the Declarant, the Special Declarant Rights as herein defined and the following rights, powers, and privileges which shall be in addition to the Special Declarant rights and any other rights, powers, and privileges reserved to the Declarant herein:

Section 1. The Architectural Control Committee/Board of Directors/Executive Board. All duties and responsibilities conferred upon the Architectural Control Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by the Declarant or its designee, so long as Declarant shall own any Lot within the Property or any Additional Property. The Declarant shall be entitled, during the Declarant control period, to appoint and remove the officers and members of any Executive board.

Section 2. Plan of Planned Community. The right to change, alter or redesignate the allocated planned, platted, or recorded use or designation of any of the lands constituting the Planned Community including, but not limited to, the right to change, alter or redesignate road, utility, stormwater, and drainage facilities and easements and to change, alter or redesignate such other present and proposed amenities, common elements, or facilities as may in the sole judgment and discretion of Declarant be necessary or desirable. The Declarant hereby expressly reserves unto itself, its successors and assigns, the right to replat any one (1) or more lots shown on the plat of any subdivision of the property of additional property in order to create one or more modified lots: to further subdivide tracts or lots shown on any such subdivision plat into two or more lots; to recombine one or more tracts or Lots or a tract and Lots to create a larger tract or Lot (any lot resulting from such combination shall be treated as one Lot for purposes of assessments): to eliminate from this declaration of any plats of the planned community lots that are not otherwise buildable or are needed or desired by Declarant for access or are needed or desired by Declarant for use as common area, as a public or private roads, or as access areas, whether serving the Planned Community or other property owned by the Declarant or others, or which are needed for the installation of utilities, common elements or amenities, and to take such steps as are reasonably necessary to make such re-platted Lots or tracts suitable and fit as a building site, access area, roadway or common elements. Declarant specifically reserves the right, but not obligation, to convert one Lot owned by the Declarant, or its successor, to Common Area for the subdivision.

Section 3. Amendment of Declaration by the Declarant. This Declaration may be amended without member approval by the Declarant, or the board of the Association, as the case may be, as follows:

- A. In any respect, prior to the sale of the first lot.
- B. To the extent this declaration applies to additional property.
- C. To correct any obvious error or inconsistency in drafting, typing, or reproduction.
- D. To qualify the Association or the property and additional property, or any portion thereof, for tax-exempt status.
- E. To incorporate or reflect any platting change as permitted by this article or otherwise permitted herein.
- F. To conform this declaration to the requirements of any law or governmental agency having legal jurisdiction over the property or any Additional Property or to qualify the property or any additional property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency belonging to, sponsored by, or under the substantial control of the United States Governmental or the State of North Carolina, regarding purchase or sale of such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of the property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from the official of any such corporation or agency, including, without limitation, the Department of Veteran affairs, U.S. Department of housing and urban development, the federal home loan mortgage corporation, Government National mortgage corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency, provided that the changes made substantially conform to such request or suggestion. Notwithstanding anything else herein to the contrary, only the Declarant, during the Declarant Control period, shall be entitled to amend this Declaration pursuant to this section.

## ARTICLE VII

## USE RESTRICTIONS, ARCHITECTURAL CONTROL AND MAINTENANCE

Section 1. Architectural Control and Maintenance. After the period of Declarant Control, the Association shall have the right and obligation to control the development and appearance in the Planned Community, subject to the following minimum guidelines:

A. Approval of plans for building and site improvements. No house plans will be approved unless the proposed house shall have a minimum 1000 square feet of enclosed heated square feet, which shall be the total enclosed area within a dwelling, provided, however, that such term does not include terraces, decks, open porches, and like areas, provided further, that shed-type porches, even though attached to the house are specifically excluded from the definition of the aforesaid term "heated square footage".

B. Since the establishment of inflexible building setback lines for location of houses on Lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines shall be established by this Declaration. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any Lot shall be controlled by and must be approved absolutely by the Declarant, and after the period of Declarant control, by the Architectural Review Committee; provided, however, that no structure shall be constructed closer to a Lot Line than is permitted by applicable governmental regulations.

C. The exterior of all dwellings and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder, due to strikes, fires, national emergency, natural calamities, or complexity of design and construction.

D. Fences shall be permitted on any Lot; provided, however, that the design, placement, and materials of any fence are approved by the Declarant, and after the period of Declarant control, by the Architectural Review Committee. No fence shall be permitted any further forward the front corners of the house on the lot. No chain link fences may be visible from the streets that border the lot. Clotheslines are permitted on lots, however, no clothesline may be visible from the streets that border the lot upon which the clothesline is located.

E. Off street parking for not less than (2) two passenger automobiles must be provided on each lot prior to the occupancy of any dwelling constructed on said lot which parking areas and the driveways thereto shall be constructed of concrete, brick, asphalt, or turf stone, or any other material approved by the Declarant, and after the period of Declarant control, by the Architectural Control Committee.

F. The Declarant may, at its option, construct and install sprinkler systems upon some or all of the lots in the development. However after a lot with a sprinkler system has been conveyed by Declarant, it shall be the sole duty and responsibility of the lot owner to thereafter operate and maintain the said system in good operational order and repair, including the repair and replacement of all parts and materials for the irrigation wall and the entire system,

G. It shall be the continuing duty and responsibility of the lot owner to landscape and maintain their lawns and environment in the manner that has been approved by the Declarant, and after the period of Declarant control, by the Architectural Control Committee.

## Section 2. Use Restrictions.

A. LAND USE AND BUILDING TYPE. No lot shall be used for any purpose other than residential purposes, subject, however, to the rights of the Declarant contained herein, and the right to convert lots to Common Area, or a lot for access to adjacent property. All numbered Lots are restricted for construction of one single family dwelling not to exceed two stories in height (plus such detached garages and other accessory buildings as may be approved in their sole discretion by the Declarant, and after the period of Declarant control, by the Architectural Control Committee).

B. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, or of other nature as may significantly diminish or destroy the enjoyment of other lots by the owners thereof. It shall be the responsibility of each owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds on the Owner's lot which would tend to decrease the beauty of the neighborhood as a whole or the specific area.

C. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot any time as a residence whether temporarily or permanently without the written consent of the Declarant, and after the period of Declarant control, by the Association.

D. ANIMALS. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except domestic dogs and cats, or other household pets, provided they are not kept or maintained for commercial purposes, or in such numbers as to create a nuisance prohibited by B., above.

E. TELEVISION SATELLITE DISHES AND OUTSIDE ANTENNAS. No yard statuary or TV satellite signal receiving dishes are permitted on any lot and no outside radio or television antennas shall be erected on any lot or dwelling unit unless and until permission for the same has been granted by the Declarant, and after the period of

Declarant control, by the Architectural Control Committee; provided, however satellite dishes under 18" in diameter which cannot be seen from the street are permitted.

F. EXTERIOR LIGHTS. All light bulbs and other lights installed on any fixture located on the exterior of any building or any lot shall be of clear, white, non-frost or yellow bug bulbs.

G. SIGNS. No signs (including "for rent" or "for sale" signs) shall be permitted on any lot or in the common area without permission of the Executive Board, provided, however the Declarant may, so long as it owns any lot, maintain for sale signs on Declarants lots and signs on its lots and in the common area generally advertising the planned community.

H. JUNK VEHICLES. No inoperable vehicle will be permitted on the premises. The Association shall have the right to have all vehicles towed away at the owner's expense.

I. SUBDIVIDING. Subject to any rights reserved by the Declarant herein, no lot shall be subdivided, or its boundary lines be changed except with the prior written consent of the Declarant during the Declarant control period and thereafter by the Board of Directors of the Association.

J. FENCING. In order to maintain compliance with all stormwater permits, no fencing will be allowed on, or along, any drainage or access easement between any lot and any common area, conservation area, or recreation area without the express written consent of the Declarant.

K. IMPERVIOUS SURFACE. No more than 3000 square feet of any lot shall be covered by structures or impervious materials. This allotted amount includes any built upon areas constructed within the property boundaries, and that portion of the road right-of-way between the front lot line and the edge of the pavement. Impervious materials include, but is not limited to, structures, asphalt, gravel, concrete, brick, stone, slate, coquina, parking areas, or similar material but do not include raised open wood decking or the water surface of swimming pools. Built upon area in excess of the permitted amount requires a state stormwater management permit modification prior to construction.

All runoff from the built upon areas on the Lot must drain into permitted systems. This may be accomplished through the use of roof drain gutters, which drain to the street, grading the lot to drain toward the street, or grading perimeter swales to collect lot runoff and directing them into the stormwater system, or into the street. Lots that naturally drain toward the street are not required to provide these additional measures.

L. SWALES. Swales shall not be filled in, piped, or altered except as necessary to provide driveway crossing.

M. STORMWATER. All permitted runoff from out parcels or future development shall be directed into the permitted stormwater control system. These connections to the stormwater control system shall be performed in a manner that maintains the integrity and performance of the system as permitted.

N. MECHANICS. No mechanical or maintenance work shall be done on cars or other machinery or equipment in the front or side yard of any home, or in the street in front of any Lot.

O. BOATS AND RECREATIONAL VECHILES. Boats, recreational vehicles, and other similar vehicles shall only be parked on driveways or on pads, the design and location of which must be approved by the Declarant, and after the period of Declarant control, by the Architectural Review Committee, and may not be parked in the front or side yard, or in the street in front of any Lot.

P. LEASES. No property shall be leased for less than 6 months.

Q. MODULAR AND MOBILE HOMES. No modular or mobile homes shall be placed on any lot.

R. WINDOW TREATMENTS. Permanent window treatments must be installed on all new homes within 30 days of occupancy.

S. EXTERIOR MAINTENANCE. Each lot owner shall maintain the exterior of all buildings, walls, and other improvements on his lot in good condition and repair, and shall replace worn and rotten parts and shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, or other exterior portions of the improvements to deteriorate in an unattractive manner. The maintenance referenced herein may be supervised and regulated by the CITRUS COVE SUBDIVISION HOMEOWNERS ASSOCIATION, INC., as hereinafter provided and hereinafter referenced as "the Association". In the event that the lot owner shall fail to comply with these maintenance requirements, the Association is hereby expressly authorized, and the lot owner hereby expressly agrees, that said maintenance and/or repair may be effected by the said Association with the expenses incurred for the same to be assessed against the individual lot owner as a special assessment and subject to the regulations regarding liens and assessments as herein set forth.

## ARTICLE VIII STORMWATER/RUNOFF FACILITIES

Section 1. Transfer of Permit. The Association and each of its Members agree that at anytime after (i) all work required under the Stormwater Permit has been completed (other than operation and maintenance activities), and (ii) the Declarant is not prohibited under DENR regulations from transferring the Stormwater Permit to the Association, the Association's Manager shall, without any vote or approval of Lot

Owners, and within 10 days after being requested to do so, sign all documents required by DENR for the Stormwater Permit to be transferred to the Association. If the Association fails to sign the documents required by this paragraph, the Declarant shall be entitled to specific performance in the courts of North Carolina requiring that the Association Manager signs all documents necessary for the Stormwater Permit to be transferred to the Association. Failure of the Manager to sign as provided herein shall not relieve the Association of its obligations to operate and maintain the stormwater facilities covered by the Stormwater Permit.

Section 2. Hold Harmless. The stormwater retention/detention pond(s) and related facilities constitute Common elements/Area, and the Association is responsible for operation and maintenance of such. The Association shall indemnify and hold harmless the Declarant, its successors and assigns, from any obligation and costs for operation and maintenance under the stormwater permit after the permit is transferred to the association, as provided for above

#### ARTICLE IX LOTS SUBJECT TO DECLARATION/ENFORCEMENT

Section 1. Lots Subject to Declaration. The covenants and restrictions contained in this declaration are for the purpose of protecting the value and desirability of the planned community and the lots. All present and future owners, tenants and occupants of lot and their guests or invitees, shall be subject to, and shall comply with the provisions of the Declaration, as the declaration may be amended from time to time, and all Rules and Regulations set by the Declarant, or Executive Board after the period of Developer Control. The acceptance of a deed of conveyance, or the entering into of a lease or the entering into occupancy of any lot, shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such owner, tenant, or occupant. The covenants and restrictions of this Declaration shall run with and bind the land and shall bind any person having as any time any interest or estate in any lot, their heirs, successors and assigns, as though such provisions were made a part of each and every deed of conveyance or lease, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless amended or terminated by the Lot Owners.

Section 2. Miscellaneous. Failure by the association, or by an 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 remedies provided herein are cumulative and are in addition to any other remedies provided by law.

#### ARTICLE X RIGHTS OF INSTITUTIONAL LENDERS

Institutional lender or Institutional lenders as the term is used herein, shall mean and refer to banks, savings and loans, savings banks, insurance companies, the veteran's administration, the Federal Housing Authority, the Federal National Mortgage

Association, and other reputable mortgage lenders, guarantors, and insurers of such first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any mortgage upon any lot, or shall be the owner of any lot, such Institutional Lender or lenders shall have the following rights.

A. To be furnished with at least one copy of the Annual Financial statement and report of the association, including a detailed statement of annual carrying charges or income collected and operating expenses, such financial statement and report to be furnished by April 15<sup>th</sup> of each calendar year.

B. To be given notice of the association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and Bylaws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meetings.

C. To be given notice of default in the payment of assessments by an owner of a lot encumbered by a mortgage held by the institutional lender or lenders, such notice to be given in writing and to be sent to the principle office of such Institutional lender or lenders, or to the place which it or they may designate in writing to the Association.

D. To inspect the books and records of the Association and the Declaration, bylaws and any rules and regulations during normal business hours, and to obtain copies thereof, for a reasonable copying fee.

E. To be given notice by the Association of any substantial damage to any part of the common area.

F. To be given notice by the association if any portion of the common area is made the subject matter of any condemnation of eminent domain proceedings or is otherwise sought to be acquired by a condemning authority.

## ARTICLE XI CONSERVATION DECLARATION

### RECITALS AND CONSERVATION PURPOSES

A. Declarant is the sole owner in fee simple of the certain Conservation property (Citrus Cove Subdivision). Being approximately 21 acres, more particularly described in Exhibit A attached hereto and be this reference incorporated herein (Map Book 31 Page 102).

B. The purpose of this Conservation Declaration is to maintain wetland and/or riparian resources and other natural values of the property, and prevent the use of development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its original condition. The preservation of the

Property in its natural condition is a condition of Department of the Army permit Action ID 200400402 issued by the Wilmington District Corps of Engineers (Corps), required to mitigate for unavoidable impacts to waters of the US authorized by that permit, and this conservation may therefore be enforced by the USA.

NOW, FURTHER THEREFORE the Declarant also hereby unconditionally and irrevocably declares that the property shall be held and subject to the following restrictions, covenants and conditions as set out herein, to run with the subject real property and be binding on all parties that have or shall have any right, title, or interest in said property.

Section 1. Prohibited and Restricted Activities.

Any activity on, or use of, the property inconsistent with the purposes of this Conservation Declaration is prohibited. The property shall be maintained in its natural, scenic and open condition and restricted from any development or use that would impair or interfere with the conservation purposes of this Conservation Declaration set forth above.

Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited or restricted.

A. Disturbance of Natural Features. Any change disturbance, alteration or impairment of the natural features of the Property or any introduction of non-native plants and/or animal species is prohibited.

B. Construction. There shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, billboard or other advertising display, antenna, utility pole, tower, conduit, line, pier, landing, dock, or any other temporary or permanent structure or facility on or above the Property.

C. Industrial, Commercial, and Residential Use. Industrial, commercial and residential activities, including any right of passage for such purposes, are prohibited.

D. Agricultural, Grazing and Horticulture Use. Agricultural, grazing, animal husbandry and horticultural uses of the Property are prohibited.

E. Vegetation. There shall be no removal, burning, destruction, harming, cutting or mowing of trees, shrubs, or other vegetation on the property.

F. Roads and Trails. There shall be no construction of roads, trails or walkways on the Property.

G. Signage. No signs shall be permitted on or over the Property, except the posting of no trespassing signs, signs identifying the conservation values of the Property,

signs giving of directions or proscribing rules and regulations for the use of the property and/or signs identifying the Grantor as owner of the Property.

H. Dumping or Storage. Dumping or storage of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery or hazardous substances, or toxic or hazardous waste or any placement of underground or aboveground storage tanks or other materials on the Property is prohibited.

I. Excavation, Dredging, or Mineral Use. There shall be no grading filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals, or other materials; and no change in the topography of the land in any manner on the Property except to restore natural topography or drainage patterns.

J. Water Quality and Drainage Pattern. There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited.

K. Development Rights. No development rights that have been encumbered or extinguished by this Conversion Declaration shall be transferred pursuant to a transferable development rights scheme or cluster development arrangement or otherwise.

L. Vehicles. The operation of mechanized vehicles including, but not limited to, motorcycles, dirt bikes, all-terrain vehicles, cars and trucks is prohibited.

M. Other Prohibitions. Any other use of, or activity on, the Property, which is or may become inconsistent with the purposes of this grant, the preservation of the Property substantially in its natural condition, or the protection of its environmental systems, is prohibited.

## Section 2. Enforcement & Remedies.

A. This Declaration is intended to ensure continued compliance with the mitigation condition of authorizations issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, and therefore may be enforced by the United States of America. This covenant is to run with the land and shall be binding on all parties and all persons claiming under the Declarant.

B. Corps, its employees and agents and its successors and assigns, have the right, with reasonable notice, to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether the Declarant, Declarant's representatives,

or assigns are complying with the terms, conditions and restrictions of this Conservation Declaration.

C. Nothing contained in this Conservation Declaration shall be construed to entitle Corps to bring any action against Declarant for any injury or change in the Conservation Property caused by third parties, resulting from causes beyond the Declarant's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Declarant under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to Property or harm to the Property resulting from such causes.

Section 3. Public Access.

A. This Conservation Declaration does not convey to the public the right to enter the Property for any purpose whatsoever.

Section 4. Documentation and Title.

A. Conservation Property Condition. The Declarant represents and acknowledges that the Property is currently undeveloped land, with no improvements other than any existing utility lines, Declarations and rights of way.

B. Titles. The Declarant covenants and represents that the Declarant is the sole owner and is seized of the Property in fee simple and has good right to make the herein Declaration; that there is legal access to the Property, that the Property is free and clear of any and all encumbrances, except Declarations of record.

Section 5. Miscellaneous.

A. Conservation Purpose. Declarant, for itself, its successors and assigns, agrees that this Conservation Property shall be held exclusively for conservation purposes.

B. Entire Agreement. This instrument sets forth the entire agreement of the parties with the respect to the Conservation Declaration and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Declaration. If any provision is found to be invalid, the remainder of the provisions of this Conservation Declaration, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

C. Recording. Declarant shall record this instrument and any amendment hereto in a timely fashion in the official records of New Hanover County, North Carolina, and may re-record it at any time as may be required to preserve its rights.

D. Environmental Condition of Conservation Property. The Declarant warrants and represents that to the best of its knowledge after appropriate inquiry and investigation: (a) the Property described herein is and at all times hereafter will continue to be in full compliance with all the federal, state, and local environmental laws and regulations, and (b) as of the date hereof there are no hazardous materials, substances, wastes, or environmentally regulated substances (including, without limitation, any materials containing asbestos) located on, in or under the Property or used in connection therewith, and that there is no environmental condition existing in the Property that may prohibit or impede use of the Property for the purposes set forth in the Recitals.

ARTICLE XII  
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 this Declaration. Failure by the Association or by an owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

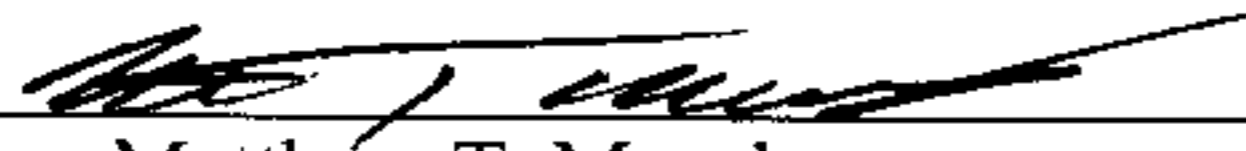
Section 3. Amendment of Covenants. Except as otherwise provided in these Covenants, the terms herein may not be amended during the period of Developer Control. After the period of Developer Control the terms herein may not be amended unless seventy five percent (75%) of the Lot Owners agree to such amendment at a meeting duly called for the purpose of voting on such changes. Any amendment approved shall be evidenced by a writing setting out such amendment, which shall be signed by all Lot owners approving, and which writing shall be recorded in the Registry of New Hanover County. In no event shall any amendment be effective to remove or modify any of the Declarant's rights without the written approval of the Declarant.

IN WITNESS WHEREOF, CITRUS COVE, LLC, the Declarant has caused this instrument to be executed by its duly authorized Member/Managers(s), all the day and year first above written.

CITRUS COVE, LLC

By SeCof, LLC

By: Southeastern Enterprises, Inc., Member - Manager

By:   
Matthew T. Murphy

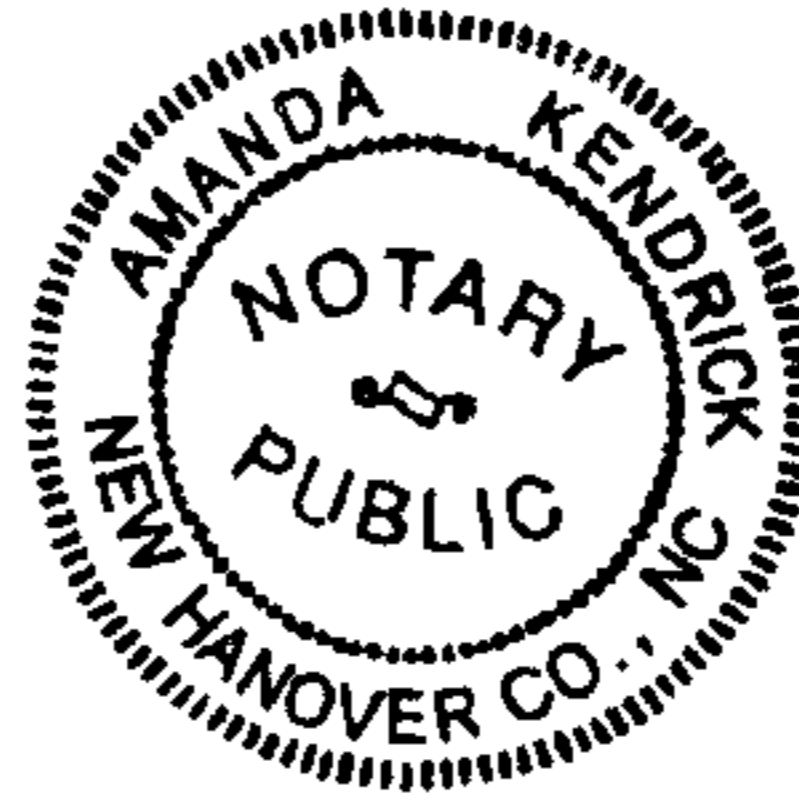
Its: President

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, a Notary Public in and for the aforesaid State and County aforesaid do hereby certify that MATTHEW T. MURPHY came before me this day and acknowledged that he is PRESIDENT of SOUTHEASTERN ENTERPRISES, INC., a Member/Manager of SECOF, LLC, the Member-Manager of CITRUS COVE, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by him in the stated capacity.

Witness my hand and official stamp or seal, this the 7th day of  
August, 2007.

Amanda Kendrick  
Notary Public  
My commission expires: 7/14/12



## Exhibit "A"

Sherwin D. Cribb  
N. C. Professional Land Surveyor L-1099  
1144 Shipyard Blvd.  
Wilmington, N. C. 28412  
Phone 910-791-0080  
Fax 910-791-6710

February 01, 2006

Description  
for  
Grove Park Properties

Beginning at a point on the westerly right-of-way line of Dunhill Lane (60 foot right-of-way), also known as SR 2585. Said beginning point being located North 72 degrees 16 minutes 08 seconds West 30.34 feet, from a point on the center-line of said Dunhill Lane. Said point on said center-line marking the demarcation line between said Dunhill Lane and Chilmark Court, as shown on a map recorded in Map Book 36 at Page 282 of the New Hanover County Registry. Said beginning point being on the northerly line of Lot 50, Section 1, Brewster Place, as shown on said record map. Running thence from said beginning point:

1. North 72 degrees 16 minutes 08 seconds West 1,064.13 feet, along the northerly line of said Brewster Place, to an old iron pipe; thence
2. North 50 degrees 12 minutes 34 seconds East 674.77 feet, along the dividing line between a tract deeded to David Matava, by deed recorded in Book 2696 at Page 817 of said Registry and Grove Park Properties Tract to a point; thence
3. South 53 degrees 00 minutes 53 seconds East 124.97 feet, a new line, to a point; thence
4. South 56 degrees 47 minutes 37 seconds East ~~40.72~~<sup>49.72</sup> feet, to a point; thence
5. South ~~57~~<sup>72</sup> degrees 45 minutes 20 seconds East 539.75 feet, to a point; thence
6. South 11 degrees 29 minutes 10 seconds West 172.02 feet, to a point; thence
7. South ~~76~~<sup>78</sup> degrees 30 minutes 50 seconds East 45.00 feet, to a point; thence
8. South 11 degrees 29 minutes 10 seconds West 141.17 feet, to a point on the northerly right-of-way line of said Dunhill Lane; thence
9. North ~~76~~<sup>78</sup> degrees 56 minutes 44 seconds West 113.71 feet, along the northerly line of said Dunhill Lane, to a point; thence

10. South 09 degrees 06 minutes 09 seconds West 201.97 feet, to the point of beginning.

The same being a portion of that tract deeded to Grove Park Properties, by deed recorded in Book 1367 at Page 177 of said Registry.

The above described tract contains 11.01 acres, more or less. Subject to and together with easements of record.





REBECCA P. SMITH  
REGISTER OF DEEDS, NEW HANOVER  
216 NORTH SECOND STREET

WILMINGTON, NC 28401

\*\*\*\*\*

Filed For Registration: 08/08/2007 03:35:03 PM

Book: RE 5217 Page: 2017-2041

Document No.: 2007039884

DECL 25 PGS \$83.00

Recorder: NELSON, JACQUELINE

State of North Carolina, County of New Hanover

**YELLOW PROBATE SHEET IS A VITAL PART OF YOUR RECORDED DOCUMENT.  
PLEASE RETAIN WITH ORIGINAL DOCUMENT AND SUBMIT FOR RE-RECORDING.**

**\*2007039884\***

2007039884