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KINGBERRY WOODS, L.L.C.

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DECLARATION OF

PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION of Protective Covenants, Conditions and Restrictions, made this 10th day of May, 2000, by Kingberry Woods, L.L.C., a Virginia Limited Liability Company.

WHEREAS, Kingberry Woods, L.L.C., hereinafter called "Declarant", is the owner in fee simple of certain real property located in Fauquier County, Virginia, and known by official plat designation as "Mountain Shade Subdivision" prepared by Carson, Harris and Associates, L.L.C., dated February 16, 1996 and revised May 4, 1999, recorded in Deed Book 849, page 1275, among the land records of Fauquier County, Virginia.

WHEREAS, by Credit Line Deed of trust dated the 28th day of September, 1999, and recorded in the land records of Fauquier County at Deed Book 851, page 1186, the Property was conveyed to Edward D. Harlee, Trustee, and M. Kevin McCusty, Trustee, securing The Fauquier Bank; and it is the desire of the said Trustees and said Noteholder to execute this Declaration of Protective Covenants, Conditions and Restrictions.

WHEREAS, for the purpose of enhancing and protecting the value, attractiveness and desirability of the lots or tracts constituting such subdivision, the Declarant hereby declares that all of the real property described above and each part thereof shall be held, sold, and conveyed subject to the following

*Eric L. Heurte - MAR 21 2001
6060-40-6691*

Examined and Returned to:

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covenants, conditions, and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

WHEREAS, in order to effectuate the purpose above expressed, the Declarant, Trustees and Noteholder for the benefit of all lot owners, their successors and assigns, do hereby make known, admit, publish, declare, covenant and agree that Lots 1 through 27 of Mountain Shade Subdivision hereinabove set forth, or as shown on the aforesaid Plat, as amended from time to time by the Declarant, its successors and/or assigns, shall hereafter be subject to the following covenants and restrictions which shall be taken to be real covenants running with the land and binding upon all purchasers, mortgagees, owners and holders of the subject property, or any part thereof, and upon their heirs, distributees, executors, administrators and assigns.

I.

DEFINITIONS

1. "Declarant" shall mean Kingberry Woods, L.L.C., and its successors and assigns.

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2. "Owner" shall mean the record holder, whether one or more persons or entities, of a fee simple title to any lot which is part of the property.

3. "Subdivision" shall mean the entire real property hereinabove described and subdivided into lots, streets, common areas, storm water management areas (SWM), and known by official plat designation as "Mountain Shade Subdivision", Marshall Magisterial District, according to plat of subdivision thereof, recorded in Deed Book 849, page 1275, in the Clerk's Office of the Circuit Court of Fauquier County, Virginia.

4. "Lot" shall mean any plat of land shown as a single family detached residential building lot on the recorded subdivision plat referred to above, streets are not included.

II.

COVENANTS AND RESTRICTIONS RELATING TO LOTS IN
MOUNTAIN SHADE SUBDIVISION - LOTS 1 THROUGH 27

1. Except as herein provided, all the subject property hereby covered shall be used for residential purposes only, and no building shall be placed, erected or altered upon such subject property, except single-family detached dwellings, and such accessory buildings as are of this date defined in the Fauquier County Zoning Ordinance. No residential structure constructed hereafter shall contain less than the following

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square footage of finished floor area exclusive of garage, utility, storage spaces, breezeways, porches, basement areas, and other structures and appurtenances:

One Story	1,000 square feet
Two Story	1,300 square feet

No mobile home shall be permitted to be erected upon the property.

2. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. All television satellite or dish receivers shall be secreted and/or landscaped so that their impact is minimal from any other lot owner's front homesite vista. All equipment for the storage or disposal of rubbish, trash, garbage or other waste shall be kept in clean, sanitary condition and shall not be visible from the road(s). No structure of a temporary or permanent nature, except a construction trailer may be placed on a lot (not for purposes of occupancy) for a period exceeding nine (9) months, provided however that the developer reserves to himself, his successors and/or assigns the right to install a sales/exhibit trailer for purposes of promotion and sale of the lots. IF, in developers sole discretion, it is protective of the property to have a guardian or superintendent occupy the trailer on a temporary

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basis this will be allowed, but said trailer shall be removed upon sale of all of the lots.

3. No autos, boats, airplanes, recreational vehicles or any similar machine whatsoever shall be constructed or repaired in front or side yards or driveways or in such other areas of a lot so as to be visible from a street. All commercial trucks, trailers, boats, airplanes, recreational vehicles or similar machines owned or being used by the owners or occupants of a lot shall be housed and not allowed to be parked in front or side yards or driveways or in other areas unless they are screened from view; provided however, this restriction shall not apply to vehicles and mechanical apparatus then being used in conjunction with the construction of any improvements to the properties within the community or for any vehicle used for a homeowner's active trade or business. No gas, oil, or other fluid waste shall be disposed of anywhere within Mountain Shade Subdivision in any manner.

4. No sign of any kind, except for standard mailbox names and numbers, shall be displayed to the public view on any lot except one professional sign of not more than five square feet advising a lot for sale or rent, or signs used by a builder or the developer to advertise a lot during the construction and sales period.

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5. No poultry, domestic geese or ducks, or animals of any kind may be raised, bred or maintained on any lot except that household pets may be kept provided that they are properly fenced and housed.

6. Fencing shall be of masonry, stone, wood, or wire products. No chain link fencing is permitted.

7. The yards on a lot shall be clipped and mowed, as needed. In any event, all yard areas shall be mowed at least six (6) times a year by and at the expense of the lot owner or occupant.

8. The cutting of living trees shall be held to a minimum. All reasonable efforts shall be made to preserve naturally wooded areas.

9. Each lot owner is responsible for obtaining any and all necessary State or County permits or licenses prior to making any improvements on any lot.

10. Each of the owners of lots 1 through 27 and their successors in interest are responsible for the maintenance (Best Management Practices BMP) and upkeep including financial on a co-equal proportionate basis, if any, of the Stormwater Management Easement area that is a portion of Lot 20. This covenant shall run with Lots 1 through 27.

- a. The on-site BMP facilities shall be constructed by the Declarant/Lot owner in

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accordance with the plans and specifications identified in the Plat.

- b. The Declarant/Lot owners shall maintain the BMP facilities as shown on the Plat in good working order acceptable to the County.
- c. The Declarant/Lot owner of Lot 20 hereby grants permission to the County, its authorized agents and employees, to enter upon the Property and to inspect the BMP facilities whenever it deems necessary. Whenever possible, the County shall notify the Lot 20 Lot owner prior to entering the Property.
- d. In the event the Lot owner fail to maintain the BMP facilities as shown on the Plat in good working order acceptable to the County, the County may enter upon the Property and take whatever steps it deems necessary to maintain said BMP facilities. This provision shall not be construed to allow the County to erect any structure of a permanent nature on the Land of the Declarant/Lot owner. It is expressly understood and agreed that the County is under no obligation to maintain or

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repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the County.

- e. In the event the County, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Lot owners, pro rata, shall reimburse the County upon demand, within ten (10) days of receipt thereof for all costs incurred by the County hereunder.
- f. It is the intent of this Agreement to insure the proper maintenance of on-site BMP facilities by the Declarant/Lot owners; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by nonpoint source pollutant runoff.
- g. The Declarant, their executors, administrators, assigns, and any other successors in interest, shall indemnify and hold harmless the County and its agents and employees for any and all damages, accidents,

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casualties, occurrences or claims which might arise or be asserted against the County from the construction, presence, existence or maintenance of the BMP facilities by the Landowner or the County.

- h. The Declarant, their successors and assigns, will hold harmless and indemnify the County of Fauquier for any loss or liability resulting from the design of this site plat, in consideration of the County's approval thereof and the County's reasonably prudent measures to require and anticipate that any foreseeable impact to adjoining properties is within the limits of property management practices.

11. These covenants shall run with the subject property and shall be binding on the Grantees and all persons claiming under them until January 1, 2009, after which time said covenants shall be automatically extended for successive periods of ten years, unless an instrument signed by two-thirds (2/3rds) of the then owners of the said lots in Mountain Shade Subdivision has been recorded in the land records of Fauquier County agreeing to change or terminate said covenants in whole or in part. These covenants may be amended by a 2/3 vote of all lot owners of

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Mountain Shade Subdivision at a special meeting called for this purpose, with appropriate notice, not less than twenty-one (21) days, to all lot owners.

12. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way effect the validity of the other provisions which shall remain in full force and effect. Use of the plural herein shall be deemed to include the singular and use of the singular herein shall be deemed to include the plural. The term "lot owner" is synonymous with the term "homeowner."

13. Any and all rights reserved to the Declarant/Lot owner, may be assigned by filing a deed of assignment in the Office of the Clerk of the Circuit Court, Fauquier County, Virginia, designating such assignee.

14. Violation by a lot owner of any of the covenants or restrictions as hereinabove set forth, or as amended from time to time as aforesaid, shall give rise to the following remedies which shall be vested in any individual lot owner any of which may act: injunctive relief as set forth by the Circuit Court for Fauquier County, Virginia, or any other relief that may be granted by a court of competent jurisdiction.

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IN WITNESS WHEREOF, the Declarant, Trustees, and Noteholder have acknowledged these Protective Covenants, Conditions and Restrictions, all on the date first above written.

KINGBERRY WOODS, L.L.C.,
a Virginia Limited Liability Corporation

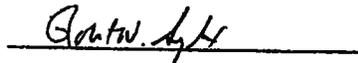
By: 

Title: Managing Member

EDWARD D. HARLLEE, Trustee, or
M. KEVIN McCUSTY, Trustee,
either of whom has full authority
to act.

By: 

THE FAUQUIER BANK
Noteholder

By: 

Title: V.P.

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COMMONWEALTH OF VIRGINIA
COUNTY OF FAUQUIER, to-wit:

The foregoing instrument was acknowledged before me this
10th day of May, 2000, by Erick Helzel, Manager
of KINGBERRY WOODS, L.L.C., a Virginia Limited Liability Company

Lynn K. Gutro
Notary Public



My commission expires: 12-31-2000

COMMONWEALTH OF VIRGINIA
COUNTY OF FAUQUIER, to-wit:

The foregoing instrument was acknowledged before me this
15th day of June, 2000, by Edmund D. Havelle
Trustee.

Sharon Kay Havelle
Notary Public



My commission expires: June 28, 2000

COMMONWEALTH OF VIRGINIA
COUNTY OF FAUQUIER, to-wit:

The foregoing instrument was acknowledged before me this
15th day of June, 2000, by Robert W. Lyday,
Vice President, of The Fauquier Bank, Noteholder.

Lucille W. Bentley
Notary Public



My commission expires: 4-30-04

VIRGINIA: IN THE CLERK'S OFFICE OF THE FAUQUIER CIRCUIT COURT

This instrument was received in this Office and with
certificate admitted to record on MAR 7 2001 at 3:42 PM.

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Teste: Kail Barb Clerk #24.00 Paid