

B27925 - P779

FOR REGISTRATION  
J. David Granberry  
REGISTER OF DEEDS  
Mecklenburg County, NC  
2012 DEC 20 04:15:12 PM  
BK: 27925 PG: 779-790  
FEE: \$26.00  
INSTRUMENT # 2012181928

PHETSL



STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

SECOND AMENDMENT TO  
DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR ARBORS  
AT MALLARD CREEK

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR ARBORS AT MALLARD CREEK (this "Second Amendment"), is made and entered into as of the 10<sup>th</sup> day of December, 2012 by and between ARBORS HOLDINGS, LLC, a North Carolina limited liability company ("Declarant"), and those property owners who execute this Second Amendment for purposes of consenting to the terms hereof (the "Second Amendment Executing Owners").

RECITALS:

ARBORS AT MALLARD CREEK, LLC, a North Carolina limited liability company (the "Original Declarant") has heretofore imposed certain covenants, conditions, and restrictions in that certain Declaration of Covenants, Conditions, Restrictions and Easements for Arbors at Mallard Creek dated July 30, 2004 and recorded in Book 17594, Page 893 of the Mecklenburg County Register of Deeds (the "Original Declaration") upon the property described in Exhibit A of the Declaration and all other property made subject to the Declaration by amendment, deed or otherwise (collectively, the "Property").

Original Declarant bargained, sold, assigned, transferred, conveyed, and set over to Declarant any and all of its rights, powers, easements, reservations, interests and privileges as Declarant under the Declaration by that certain Assignment and Assumption of Declarant's Rights dated May 14, 2009 and recorded May 15, 2009 in Book 24736, Page 613 in the Mecklenburg County Register of Deeds (the "Assignment").

Drawn by and mail to:  
Gary T. McDermott, Esq.  
Womble Carlyle Sandridge & Rice, LLP  
3500 One Wachovia Center  
301 S. College Street  
Charlotte, NC 28202

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Declarant and the Executing Owners (as that term is defined in the First Amendment) amended the Original Declaration in that certain First Amendment to Declaration of Covenants, Condition, Restrictions and Easements for Arbors at Mallard Creek dated March 1, 2010 and recorded in Book 25533, Page 953 of the Mecklenburg County Register of Deeds (the "First Amendment"). The Original Declaration, as amended by the Assignment and the First Amendment, is hereinafter referred to as the "Declaration".

Declarant and the Second Amendment Executing Owners desire to amend Article VI, Section 6.6 of the Declaration, pursuant to Article VIII, Section 8.1 of the Declaration.

The signatories hereto represent a minimum of two-thirds (2/3) of the votes of the Members of the Association, each Member's vote being equal to such Member's Prorata Share, as required by the Declaration.

**NOW, THEREFORE**, for and in consideration of the recitals set forth above, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the authority set forth in Article VIII, Section 8.1 of the Declaration, Declarant and the Executing Owners hereby amend the Declaration by declaring that the Property shall be held, developed, improved, leased, sold, transferred, conveyed and occupied subject to the covenants, conditions, restrictions and reservations set forth in this Second Amendment, all of which the parties hereto agree are harmonious with the general intent and purpose of the Declaration, and shall run with title to the Property, and shall be binding on all parties having a right, title or interest therein, along with their heirs, successors and assigns, and which shall inure to the benefit of each owner thereof. Accordingly, the Declarant and the Executing Owners hereby agree as follows:

1. The recitals set forth above are incorporated herein by reference. Any capitalized term used herein and not otherwise defined shall have the meaning ascribed to it in the Declaration.
2. The first paragraph of Article VI, Section 6.6 of the Declaration is hereby amended such that the following is added to the end of said first paragraph:

"Further notwithstanding the above to the contrary, for that certain parcel shown as "TRACT #2" on that certain plat entitled "REVISED FINAL SUBDIVISION PLAT OF THE ARBORS AT MALLARD CREEK - WEST" dated September 28, 2007 (last revised March 6, 2008) and recorded in Map Book 50 at Page 214 of the Mecklenburg County Register of Deeds ("Tract 2"), and only for Tract 2, the following shall be a Permitted Use and shall not be a Prohibited Use: operation of a dry cleaning facility that conducts onsite dry cleaning operations, laundry services and valet lane service to its customers along with other dry cleaning related services (the "Additional Tract 2 Permitted Use"), so long as such use is in conformance with all Environmental Laws and so long as any release of any Hazardous Substances from such operations is promptly remediated by the Owner of Tract 2. Without limiting

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the forgoing requirements, any Owner of Tract 2 that uses Tract 2 for the Additional Tract 2 Permitted Use shall use best environmental practices for a dry cleaning facility. Without limiting the immediately preceding sentence, any Owner of Tract 2 that uses Tract 2 for the Additional Tract 2 Permitted Use shall use products and technologies that are not harmful to the environment.”

The Declaration, as amended hereby, shall continue in full force and effect in accordance with its terms, except as expressly or by necessary implication modified and supplemented by this Second Amendment, and is hereby ratified and confirmed by Declarant and the Second Amendment Executing Owners.

**[SIGNATURE PAGES FOLLOW]**

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IN WITNESS WHEREOF, the undersigned have caused this Second Amendment to be executed under seal by authority duly given as of the day and year first above written.

DECLARANT AND CLASS B MEMBER:

ARBORS HOLDINGS, LLC,
a North Carolina limited liability company

By: [Signature]
Name: Lat W. Purser, III
Its: Manager

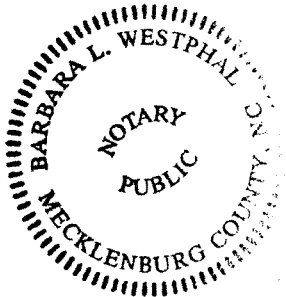
STATE OF North Carolina
COUNTY OF Mecklenburg

I, Barbara L. Westphal, a Notary Public of Mecklenburg
County and State of North Carolina, do hereby certify that LAT W. PURSER,
III (the "Signatory"), Manager of ARBORS HOLDINGS, LLC, a North Carolina limited liability
company, personally appeared before me this day and by authority duly given, acknowledged the
due execution of the foregoing instrument on behalf of ARBORS HOLDINGS, LLC.

I certify that the Signatory personally appeared before me this day, and
(check one of the following)
[X] (I have personal knowledge of the identity of the Signatory); or
(I have seen satisfactory evidence of the Signatory's identity, by a current
state or federal identification with the Signatory's photograph in the form of:
(check one of the following)
a driver's license or
in the form of ); or
(a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document
for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 15th day of October, 2012.



[Signature]
Notary Public
Print Name: Barbara L. Westphal
[Note: Notary Public must sign exactly as on notary seal]
My Commission Expires: February 4, 2017
[NOTARY SEAL] (MUST BE FULLY LEGIBLE)

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**OWNER:**

**ARBORS PROFESSIONAL CENTER  
CONDOMINIUM I ASSOCIATION, INC.,** (SEAL)  
a North Carolina non-profit corporation

By: [Signature]  
Name: Christopher J. Van Kesteren  
Title: Chairman

By: Patrick A. Beach  
Name: PATRICK A. BEACH  
Title: Secretary/Treasurer

STATE OF North Carolina  
COUNTY OF Mecklenburg

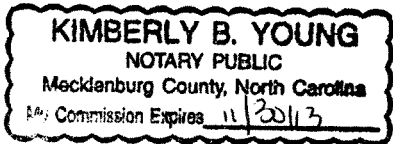
I, Kimberly B. Young, a Notary Public of Mecklenburg County and State of North Carolina, do hereby certify that Christopher J. Van Kesteren (the "Signatory"), personally came before me this day and acknowledged that he/she is Chairman of ARBORS PROFESSIONAL CENTER CONDOMINIUM I ASSOCIATION, INC., a North Carolina non-profit corporation, and that he/she, in such capacity and being authorized to do so, executed the foregoing on behalf of ARBORS PROFESSIONAL CENTER CONDOMINIUM I ASSOCIATION, INC.

I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
(check one of the following)  
 a driver's license or  
 in the form of \_\_\_\_\_); or  
 (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 10 day of December, 2012.



Kimberly B. Young  
Notary Public  
Print Name: Kimberly B. Young  
[Note: Notary Public must sign exactly as on notary seal]  
My Commission Expires: 11/30/13  
[NOTARY SEAL] (MUST BE FULLY LEGIBLE)

[NOTARY FOR THE SECRETARY/TREASURER FOLLOWS]

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STATE OF North Carolina  
COUNTY OF Mecklenburg

I, Kimberly Byrnes, a Notary Public of Mecklenburg County  
and State of North Carolina, do hereby certify that  
Patrick A Beach (the "Signatory"), personally came before me this day  
and acknowledged that he/she is Secretary/Treasurer of ARBORS PROFESSIONAL CENTER  
CONDOMINIUM I ASSOCIATION, INC., a North Carolina non-profit corporation, and that  
he/she, in such capacity and being authorized to do so, executed the foregoing on behalf of  
ARBORS PROFESSIONAL CENTER CONDOMINIUM I ASSOCIATION, INC.

I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

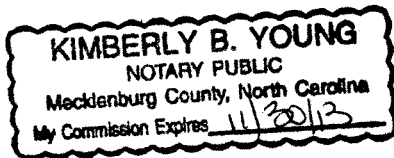
- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
(check one of the following)
  - a driver's license or
  - in the form of \_\_\_\_\_); or
  - (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 10 day of December 2012.

Kimberly Byrnes  
Notary Public

Print Name: Kimberly Byrnes  
[Note: Notary Public must sign exactly as on notary seal]  
My Commission Expires: 11/30/13  
[NOTARY SEAL] (MUST BE FULLY LEGIBLE)



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**OWNER:**

GAVI THE ARBORS II, LLC, (SEAL)  
a Delaware limited liability company, and

PURSER ARBORS, LLC,  
a North Carolina limited liability company, collectively

By: LAT PURSER & ASSOCIATES, INC.,  
a North Carolina corporation, Manager

By: [Signature]  
Name: Lat W. Purser, III  
Title: Authorized Officer

STATE OF North Carolina  
COUNTY OF Mecklenburg

I, Barbara L. Westphal, a Notary Public of Mecklenburg County and State of North Carolina, do hereby certify that LAT W. PURSER, III (the "Signatory"), Authorized Officer of LAT PURSER & ASSOCIATES, INC., a North Carolina corporation, Manager of GAVI THE ARBORS II, LLC, a Delaware limited liability company, and also Manager of PURSER ARBORS, LLC, a North Carolina limited liability company, personally appeared before me this day and by authority duly given, acknowledged the due execution of the foregoing instrument on behalf of LAT PURSER & ASSOCIATES, INC. as Manager of GAVI THE ARBORS II, LLC and as Manager of PURSER ARBORS, LLC.

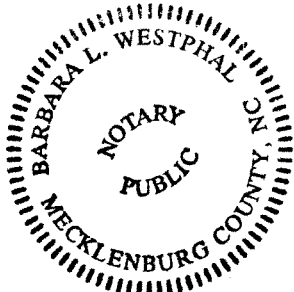
I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
(check one of the following)

- a driver's license or
- in the form of \_\_\_\_\_); or
- (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 15<sup>th</sup> day of October, 2012.



Barbara L. Westphal  
Notary Public

Print Name: Barbara L. Westphal

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: February 4, 2017

☞ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)

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**OWNER:**

GAVI THE ARBORS III, LLC, (SEAL)  
a Delaware limited liability company, and

PURSER ARBORS, LLC,  
a North Carolina limited liability company, collectively

By: LAT PURSER & ASSOCIATES, INC.,  
a North Carolina corporation, Manager

By: [Signature]  
Name: Lat W. Purser, III  
Title: Authorized Officer

STATE OF North Carolina  
COUNTY OF Mecklenburg

I, Barbara L. Westphal, a Notary Public of Mecklenburg County and State of North Carolina, do hereby certify that LAT W. PURSER, III (the "Signatory"), Authorized Officer of LAT PURSER & ASSOCIATES, INC., a North Carolina corporation, Manager of GAVI THE ARBORS III, LLC, a Delaware limited liability company, and also Manager of PURSER ARBORS, LLC, a North Carolina limited liability company, personally appeared before me this day and by authority duly given, acknowledged the due execution of the foregoing instrument on behalf of LAT PURSER & ASSOCIATES, INC. as Manager of GAVI THE ARBORS III, LLC and as Manager of PURSER ARBORS, LLC.

I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

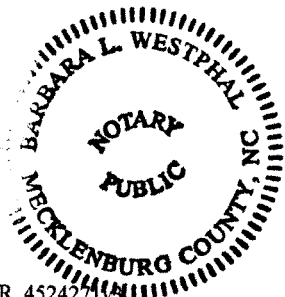
- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:

(check one of the following)

- a driver's license or
- in the form of \_\_\_\_\_); or
- (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 15<sup>th</sup> day of October, 2012.



Barbara L. Westphal  
Notary Public

Print Name: Barbara L. Westphal

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: February 4, 2017

[NOTARY SEAL] (MUST BE FULLY LEGIBLE)



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OWNER:

CIRCLE K STORES INC.,  
a Texas corporation

(SEAL)

By: [Signature]  
Name: Matt McCure  
Title: Vice President

STATE OF NC  
COUNTY OF Mecklenburg

I, Rebecca Lowe, a Notary Public of Mecklenburg County, State of NC, certify that Matt McCure (the "Signatory"), personally came before me this day and acknowledged that he/she is Vice President of CIRCLE K STORES INC., a Texas corporation, and that he/she, in such capacity and being authorized to do so, executed the foregoing on behalf of CIRCLE K STORES INC..

I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

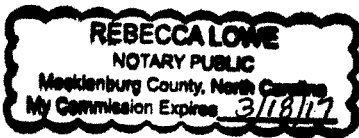
- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
(check one of the following)  
 a driver's license or  
 in the form of \_\_\_\_\_); or
- (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 26<sup>th</sup> day of October, 2012.

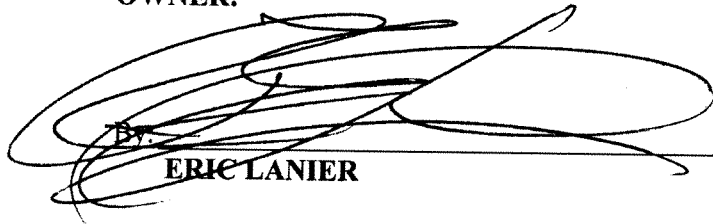
[Signature]  
Notary Public  
Print Name: Rebecca Lowe

[Note: Notary Public must sign exactly as on notary seal]  
My Commission Expires: 3/18/17  
[NOTARY SEAL] (MUST BE FULLY LEGIBLE)



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OWNER:

 (SEAL)  
 By: ERIC LANIER

STATE OF NC  
 COUNTY OF Mecklenburg

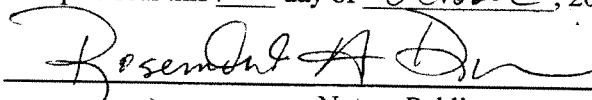
I, Rosemond Davis, a Notary Public of Mecklenburg County, State of NC, do hereby certify that ERIC LANIER (the "Signatory") personally appeared before me this day and acknowledged the execution of the foregoing instrument.

I certify that the Signatory personally appeared before me this day, and  
 (check one of the following)

- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
 (check one of the following)  
 a driver's license or  
 in the form of \_\_\_\_\_); or
- (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 17<sup>th</sup> day of October, 2012.

  
 \_\_\_\_\_

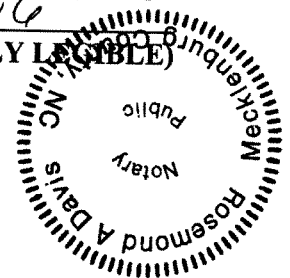
Notary Public

Print Name: Rosemond A. Davis

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: 5/13/2014

[NOTARY SEAL] (MUST BE FULLY LEGIBLE)



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**OWNER:**

**ARBORS OFFICE B, LLC,** (SEAL)  
a North Carolina limited liability company

By: [Signature]  
Name: Lat W. Purser, III  
Title: Manager

STATE OF North Carolina  
COUNTY OF Mecklenburg

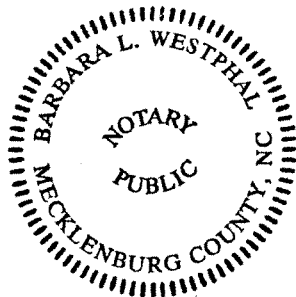
I, Barbara L. Westphal, a Notary Public of Mecklenburg County and State of North Carolina, do hereby certify that LAT W. PURSER, III (the "Signatory"), Manager of ARBORS OFFICE B, LLC, a North Carolina limited liability company, personally appeared before me this day and by authority duly given, acknowledged the due execution of the foregoing instrument on behalf of ARBORS OFFICE B, LLC.

I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
(check one of the following)  
 a driver's license or  
 in the form of \_\_\_\_\_); or
- (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 15<sup>th</sup> day of October, 2012.



Barbara L. Westphal  
Notary Public  
Print Name: Barbara L. Westphal  
[Note: Notary Public must sign exactly as on notary seal]  
My Commission Expires: February 4, 2017  
[NOTARY SEAL] (MUST BE FULLY LEGIBLE)

B27925 - P790

OWNER:

ARBORS AT MALLARD CREEK, TIC (SEAL)

a \_\_\_\_\_

By: Mindy Mills Hinson  
Name: MINDY MILLS HINSON  
Title: SENIOR PROPERTY MANAGER

STATE OF North Carolina  
COUNTY OF Mecklenburg

I, Melissa D. Elder, a Notary Public of Mecklenburg County and State of North Carolina, do hereby certify that Mindy Mills Hinson (the "Signatory"), Senior Property Manager of DBSI, a Tenants in Common, personally appeared before me this day and by authority duly given, acknowledged the due execution of the foregoing instrument on behalf of DBSI, Arbors at Mallard Creek, TIC

*Arbors at Mallard Creek TIC*

I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:

(check one of the following)

- a driver's license or
- in the form of \_\_\_\_\_); or
- (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 7<sup>th</sup> day of November, 2012.

Melissa D. Elder

Notary Public

Print Name: Melissa D. Elder

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: June 28, 2015

[NOTARY SEAL] (MUST BE FULLY LEGIBLE)

