

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

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2012181928

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 10th 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

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

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 proceeding 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.”

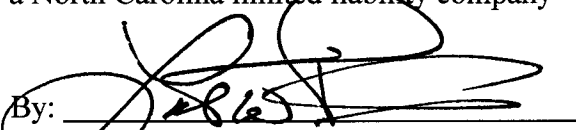
The Declaration, as amended hereby, shall continue in full force and effect in accordance with its terms, except as expressly or by necessary implication modified and supplemented by this Second Amendment, and is hereby ratified and confirmed by Declarant and the Second Amendment Executing Owners.

[SIGNATURE PAGES FOLLOW]

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: 
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)

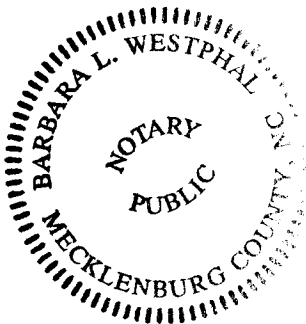
X (I have personal knowledge of the identity of the Signatory); or
____ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:

(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.



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)

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. Bench
Name: PATRICK A. BENCH
Title: Secretary/Treasurer

STATE OF North Carolina
COUNTY OF Mecklenburg

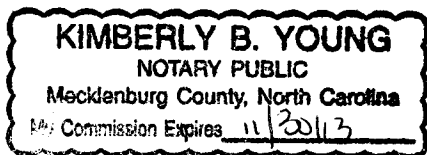
I, Kimberly B. Young, a Notary Public of Mecklenburg County and State of North Carolina, do hereby certify that Christopher J. Van Kesteren (the "Signatory"), personally came before me this day and acknowledged that he/she is Chairman of ARBORS PROFESSIONAL CENTER CONDOMINIUM I ASSOCIATION, INC., a North 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.



[Signature]
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]

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)

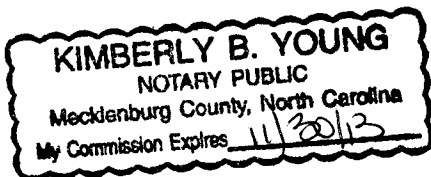
☒ (I have personal knowledge of the identity of the Signatory); or
☐ (I have seen satisfactory evidence of the Signatory's identity, by a current
 state or federal identification with the Signatory's photograph in the form of:

(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)

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)

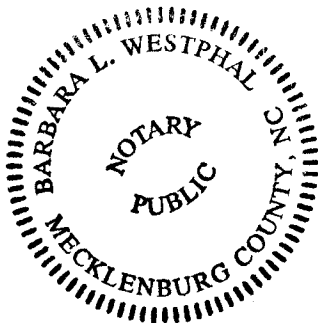
X (I have personal knowledge of the identity of the Signatory); or
____ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:

(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.



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)

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)

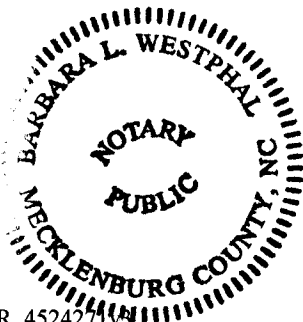
X (I have personal knowledge of the identity of the Signatory); or
____ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:

(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.



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)

OWNER:

CIRCLE K STORES INC.,
a Texas corporation

(SEAL)

By: 
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..

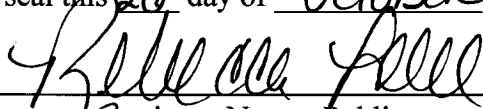
I certify that the Signatory personally appeared before me this day, and

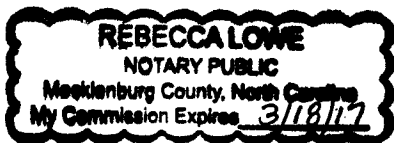
(check one of the following)

- ☒ (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).

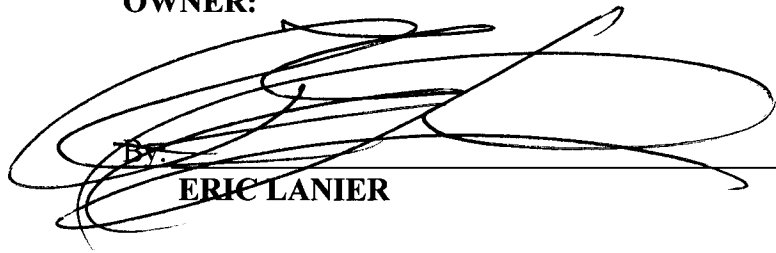
The Signatory acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

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


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)



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)

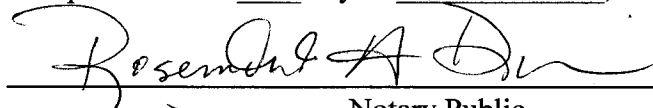
- ☒ (I have personal knowledge of the identity of the Signatory); or
☐ (I have seen satisfactory evidence of the Signatory's identity, by a current
 state or federal identification with the Signatory's photograph in the form of:

(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 17th day of October, 2012.



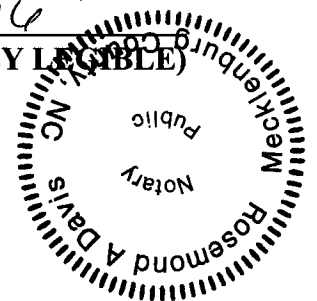
Notary Public

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)



OWNER:

ARBORS AT MALLARD CREEK, TIC

(SEAL)

a _____

By: Mindy Mills HinsonName: MINDY MILLS HINSONTitle: SENIOR PROPERTY MANAGERSTATE 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

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 7th 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)

