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This instrument prepared by: *Return:*
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NORTH CAROLINA
SCOTLAND COUNTY

AMENDED AND RESTATED
DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS
AND CONDITIONS
FOR HEATHER GLEN SUBDIVISION

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JANE E. LUNN
REGISTER OF DEEDS
SCOTLAND COUNTY, N.C.

THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS, effective this 12th day of January, 2000, by Tobacco Warehouse Investment Corporation, a North Carolina Corporation (hereinafter sometimes referred to as "Developer").

WITNESSETH:

WHEREAS, the Developer has heretofore filed of record at Book 458, Page 67, Scotland County Registry, a certain instrument entitled "Declaration of Restrictive and Protective Covenants and Conditions for Heather Glen Subdivision, herein the "Old Covenants", and

WHEREAS, Developer is desirous of amending and restating the Old Covenants in their entirety; and

WHEREAS, the Developer has heretofore acquired title to and remains the sole owner in fee in a certain tract or parcel of real property, which has been subdivided into Lots numbered 1 through 13, inclusive, according to a certain map or plat entitled "Survey for Heather Glen, Stewartsville Township, Scotland County, North Carolina" by J.F. Wampler Engineering, Inc. dated November 1, 1996

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(the "Plat"), which said map appears of record in Map Book 9, Page 255, Scotland County Registry, incorporated herein by reference (hereinafter sometimes referred to as the "Subdivision"); and

WHEREAS, the Developer intends to convey said numbered Lots as the same are shown and delineated on the above-mentioned plat, by deeds, deeds of trust, mortgages, and other instruments to various persons, firms and/or corporations, subject to certain restrictive and protective covenants and conditions which are deemed to make the Subdivision more desirable and to be for the benefit of all those who acquire title to any one or more of said numbered Lots to the end that the restrictive and protective covenants and conditions herein set out shall inure to the benefit of each person, firm or corporation which may acquire title to any one or all of said numbered Lots and which shall be binding upon each person, firm, or corporation to whom or to which the Developer may hereinafter convey any of said numbered Lots by deed, mortgage, deed of trust or other instrument (hereinafter the "Owners").

NOW, THEREFORE, in consideration of the premises, the said Developer hereby covenants and agrees with the Owners that each of the aforementioned numbered Lots shall be held, sold, encumbered and conveyed subject to the restrictive and protective covenants and conditions hereinafter set forth and said restrictive and protective covenants and conditions shall run with the land and shall become a part of each instrument conveying any of said numbered Lots as fully and to the same extent as if set forth therein.

The Developer hereby restates and amends the Old Covenants in their entirety effective as of the date hereinabove and as a condition of the sale or conveyance of any of said numbered Lots, the Owners agree and covenant to abide by and conform with said restated restrictive and protective covenants and conditions.

THE RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS ARE AS FOLLOWS:

1. LOT: The word "Lot" as used herein shall mean the separately numbered parcels depicted on the above-mentioned Plat. Each Lot shall constitute a residential building site. Provided, however, that the Owner of all of a numbered parcel on said Plat may combine with another numbered parcel or parcels, and the aggregate shall be considered as one "Lot". No Lot shall be subdivided, or its boundary lines changed, however, it shall be permissible to combine two or more adjacent Lots, which have a common ownership, into one tract of land for purposes of building a dwelling. In the event of such a combination, the setback requirements relating to the common boundary between two Lots will not prohibit building upon that boundary so long as requirements relating to the outside border of the tract are met. This provision does not reduce or remove any other restriction which may exist as a result of this Declaration.

2. LAND USE AND BUILDING TYPE. Each Lot shall constitute a single residential building site and no Lot shall be used except for single-family residential purposes. No structure

shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family dwelling of not more than two (2) stories in height, a private garage for not more than three cars, and such outbuildings as are in harmony with the architecture of the dwelling house, or incidental to such residential use, and are located to the rear of the dwelling house.

Conventional built homes and modular homes (non-movable and permanently attached), all built in accordance with the North Carolina State Building Code shall be allowed. Provided, no mobile homes shall be permitted. Any pump-house installed upon a Lot shall be located to the rear of the dwelling house.

Any and all such structures must be approved by the Architectural Standards Committee prior to the beginning of any construction or location on any Lot, in accordance with Section 7 below.

3. DWELLING SIZE. No dwelling house shall be built or located on the Lots in the Subdivision having less than a minimum square feet of heated finished space, exclusive of garages and open porches, herein the "dwelling size" as follows.

<u>Lots</u>	<u>Dwelling Size</u>
1 and 2	1500
4, 5, 6, 7, 8, and 9	2000
3, 10, 11, 12 and 13	1800

4. GARAGES AND CARPORTS. No open carport shall be erected or placed on any Lot unless the same is located on the rear yard and is attached to the dwelling. All garages and carports

must be approved by the Architectural Standards Committee in accordance with the provisions of Section 7.

5. TEMPORARY STRUCTURES. No trailer, tent, shack, shanty, or structure of a temporary character or other outbuilding shall be used at any time on any Lot as a residence, either temporarily or permanently.

6. FENCES AND WALLS. All fences and walls erected or maintained on any Lot shall be in compliance with the building code and ordinances of the governing authority. No fence shall be erected between the residence and the road or street upon which the residence faces, except for decorative or other expressly approved fences. No fencing for livestock containment purposes will be allowed in front of a residence without the express written approval of the Architectural Standards Committee. No fence in front of or around the dwelling area shall be allowed unless it matches or compliments the dwelling on the Lot. Chain and wire length fences shall not be allowed around the dwelling area, except for dog pens when properly screened, if necessary, and located to the rear of the dwelling. Notwithstanding the foregoing, no fence, wall or similar structure shall be erected or maintained on any Lot without the prior express written consent and approval of the Architectural Standards Committee.

7. ARCHITECTURAL STANDARDS COMMITTEE. The Developer shall establish an Architectural Standards Committee (hereinafter referred to as the "Committee") which shall be composed of three (3) members. The Developer shall have the right to appoint and

remove, at any time and without cause, any member. The names of persons comprising the Committee shall be available at the offices of Tobacco Warehouse Investment Corporation, 609 Chad Drive, Rocky Mount, North Carolina 27803 or at such other address as may be designated by the Developer or the Committee.

At such time as the Developer no longer owns any portion of the Subdivision, or upon notification by the Developer to the then-record Owners of Lots in the Subdivision that it does not desire to continue to appoint members of the Committee, all three (3) members may be appointed or removed, at any time and without cause, by a written instrument executed by a majority of the then-record Owners. Excepting members of the Committee appointed by the Developer, only Owners may serve on the Committee.

A. No building construction, dwelling, structure, outside or accessory building, fence or other improvements shall be erected, placed, located, altered or constructed on a Lot, except in strict compliance with this Section 7, until the requirements hereof have been fully met and until the approval of the Committee has been obtained. Prior to the commencement of any construction or location of a dwelling on a Lot, an Owner must submit to the Committee two (2) copies of complete and final plans and specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors, floor plan, (with square footage), side and rear elevations thereof, proposed dwelling location, and the name of the builder. If a modular dwelling,

Owner shall also submit the model number or style name, elevation and floor plan of dwelling, and name and address of manufacturer.

B. The Committee shall have exclusive jurisdiction over all original construction or location of a dwelling on any Lot and later changes or modifications, additions or alterations subsequently to be constructed or made on any Lot or made to any improvements initially approved.

C. The Committee shall have the absolute and exclusive right to disapprove any construction, location, specifications or details submitted to it in the event the same are not in accordance with any of the provisions of these restrictive and protective covenants and conditions or the Architectural Standards hereinafter set forth; if the design, color scheme, general quality or condition or location upon the Lot or Lots of the proposed improvements are not in harmony with the general surroundings or adjacent structures; if the plans or specifications submitted are incomplete; or in the event the Committee deems the plans, specifications or details, or any part thereof, to be contrary to the best interests, welfare or rights of all or any part of the real property subject to this Declaration or the Owners thereof.

D. Any builder of any conventional residence upon any Lot subject to this Declaration must before beginning construction of such residence be approved by the Committee as to financial stability, building experience, and ability to build homes or other structures of the class and type of those which are

to be built on the Lot subject to this Declaration. No person shall be approved as a builder by the Committee unless such person obtains his income primarily from construction of residences. No Owner will be permitted to act as his own builder or contractor without the express written permission of the Committee.

E. The Committee shall approve or disapprove plans, specifications and details submitted in accordance with its procedures within thirty (30) days from the receipt thereof and the decisions of the Committee shall be final and not subject to appeal or review. Provided, however, that plans, specifications and details revised in accordance with Committee recommendations may be resubmitted for determination by the Committee. In the event that the Committee fails to approve or disapprove plans, specifications and details within thirty (30) days after submission of the same to the Committee, approval, for the purposes of this Article, shall be deemed to have been given by the Committee.

All plans, specifications and details submitted to the Committee shall be by personal delivery or by certified mail.

F. The Committee, or its agent, shall have the right to inspect (a) all construction to ensure that it is performed in strict accordance with the approved plans, specifications and details, and (b) all modular housing for compliance with the approved plan, specification, and details. The Owner shall be given reasonable notice of any construction determined by the Committee not to be in accordance with the approved plans, specifications and details.

G. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his residence or permitted appurtenant structures, or to paint the interior of the same any color desired.

H. The requirements of this Article shall not constitute a lien or encumbrance on any Lot on which construction is completed, and any subsequent purchaser thereof for value without notice thereof is in no way affected by the failure of his predecessors in title to comply with the terms hereof.

8. ARCHITECTURAL STANDARDS. All dwellings and outbuildings permitted to be located or erected upon any Lot by these restrictive and protective covenants and conditions shall be of material of good grade, quality and appearance, and all construction shall be performed in a good and workmanlike manner and generally be of a traditional style. The exterior construction of any dwelling or permitted outbuilding shall not be of asbestos or shingle siding. Colors and textures shall be harmonious and compatible with the colors of other dwellings within the Subdivision. Any dwelling or appurtenant structure on any Lot with a roof visible from a street or adjoining Lot shall be of materials harmonious with the surroundings and of a muted color. All dwelling connections for all utilities, including but not limited to water, electricity, telephone, and television shall be run underground from the proper connecting points to the dwelling structure as may be acceptable and feasible to the appropriate utility authority and the Committee.

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The outside surface of beams, walls and roofs of any accessory or outbuildings located on any Lot shall be of quality material and construction. Any accessory or outbuilding shall be designed, constructed and maintained so as to be aesthetically compatible with the dwelling located on said Lot.

No radio or television antennas (including dish or satellite or tower) may be installed without prior approval in writing by the Committee of its size, installation and location.

Yard decorations (such as wooden or plastic figurines of animals or persons) and outdoor clotheslines are prohibited upon any Lot, unless located in a rear yard generally out of sight.

All dwelling roofs must be shingled with a minimum pitch of 7/12, unless otherwise agreed in writing by the Committee.

The Architectural Standards set forth in this Section are not all inclusive and are in addition to and not in lieu of the general requirements set forth in these restrictive and protective covenants and conditions.

9. BUILDING LOCATION. No dwelling shall be constructed or located on any Lot in the Subdivision nearer than one hundred (100) feet to the front Lot line, twenty (20) feet to a side Lot line, fifty (50) feet to a side street or fifty (50) feet to the rear yard Lot line; provided to the extent any greater setbacks are required in the deed of conveyance from the Developer, such greater setbacks will control. All dwellings on Lots adjacent to Heather Glen Drive shall face the aforesaid street. For the purposes of these covenants, eaves, steps, fireplace chimneys and open porches

shall not be considered as a part of the dwelling; provided, further, that this shall not be construed to permit any portion of a dwelling on a Lot to encroach upon another Lot.

10. NUISANCES. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become a nuisance or annoyance to the neighborhood.

Trash, garbage and other waste must be disposed of or picked up on a regular basis. No stripped, wrecked or junked vehicles of any kind shall be kept, parked or stored upon any Lot. No regular business activity or trade of any kind whatsoever shall be carried on upon any Lot; provided, with the express prior written consent of the Committee, or by approval by the Developer in the deed of conveyance to the Owner, the Owner may store certain business related equipment on the Lot subject to the terms and conditions of said consent or approval (herein a "Permitted Use").

11. EXTERIORS. The exterior of dwellings, improvements, walls and fences shall be maintained in a good state of repair by the Owner.

12. LOT MAINTENANCE. Each Owner shall keep his Lot free of tall grass, weeds, undergrowth, dead trees, trash and rubbish and the Lots shall be properly maintained so as to present a pleasing appearance. The Owner of each Lot shall keep the cleared portion of his Lot mowed regularly, (and clear of any unsightly objects) including that area between the Lot line and the edge of any adjacent paved street or road. Where Lots border or contain

ditches, drainage canals, or swales, the Owner of each lot shall keep that area maintained regularly. All driveways must be properly maintained to avoid unsightly ruts or potholes.

13. FUEL TANKS, HEATING AND AIR CONDITIONING EQUIPMENT, ETC. No fuel tanks, similar storage receptacles or aboveground exterior air-conditioning and heating equipment and other mechanical equipment may be exposed to view from any street or road. Any such equipment may be installed only within or behind the main dwelling unit, within an accessory building, within a screened or landscaped area, or buried underground.

14. TRASH RECEPTACLES. Each Owner shall provide and keep receptacles for garbage. All receptacles, cans, carts and bags must be kept in a screened or landscaped area not generally visible from any street or road. All receptacles and other equipment for trash or waste material disposal shall be kept in a clean and sanitary condition.

15. MAILBOXES. Each Lot or dwelling unit shall have only one (1) mailbox. All such boxes and stands shall be approved by the Architectural Standards Committee. All mailboxes, mailbox posts, and newspaper boxes shall be maintained in good condition by the Owner.

16. HUNTING. Hunting in the Subdivision is prohibited.

17. PETS OR HORSES. Except as provided herein, no animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets in a reasonable number may be kept, provided they are not kept,

bred, or maintained for any commercial purpose, provided further, that such pets do not constitute a danger or nuisance to other Lot Owners or to the Subdivision. Provided, a Lot Owner shall be entitled to stable one or more horses on the rear of his Lot (behind the dwelling area) with the number of allowed horses to be in the following ratio: One horse per two (2) acres of Lot area. In no event shall any Lot Owner be allowed to stable more than five (5) horses on a Lot.

Notwithstanding the foregoing, the Architectural Standards Committee may permit other animals to be kept on a Lot by giving permission in writing not to exceed two (2) years. Nothing shall prevent the Owner for applying for successive permits. In considering each application for a permit, the Committee shall consider the character of the Subdivision, size of the Lot, its topography, the neighboring structures, and the effect on adjacent Lots.

The raising of agricultural products for sale shall not be permitted on any Lot.

18. STREET LIGHTING. Should an Owner desire to install street lighting on his property, such owner must first obtain the approval of the Architectural Standards Committee for the style, type, and location of such street lighting.

19. SIGNS. No sign of any kind shall be displayed to the public view on any Lot in the Subdivision except one professionally prepared sign of not more than one (1) square foot giving the address and occupant's name, and except one sign of not

more than four (4) square feet advertising the property for sale or advertising the names of the builder and subcontractors during the construction and sales period.

20. EASEMENTS. Five foot perpetual easements along the boundary lines of each Lot for installation and maintenance of utilities are reserved. Drainage and watercourses flowing through certain Lots are reserved by the Developer as shown on the recorded Plat. No structure, planting or other materials shall be placed or permitted to remain within these easements which may damage utilities, or interfere with drainage or flow. The easement area of each Lot and all improvements thereon except those improvements for which a public authority or utility company is responsible shall be maintained continuously by the Owner of the Lot including, but not limited to, removing any impediments to the flow of water through any watercourse which crosses said Lot.

21. NATURAL ZONE. In keeping with the harmony of and to maintain the aesthetics and privacy of the overall Subdivision, certain of the Lots are subjected to a fifty (50) foot natural zone which is set forth and reserved by the Developer as shown on the recorded Plat. Within such natural zone no permanent structures shall be permitted; provided, however, in the discretion and with the approval of the Architectural Standards Committee fencing for livestock may be allowed in natural zones not adjacent to the streets or roads. No shrubs or trees or plant growth may be cut or removed from any natural areas without the express prior written consent of the Architectural Standards Committee.

22. TIME. The foregoing restrictive and protective covenants and conditions are to run with the land and shall be binding on and applicable to all parties and all persons claiming under them for a period of twenty-five (25) years from the date the same are recorded, after which time said restrictive and protective covenants and conditions shall be automatically extended for successive periods of ten (10) years each unless an instrument of termination signed by a two-thirds majority of the then record Owners of said Lots subject hereto has been recorded in the Scotland County Registry.

23. ENFORCEMENT. In the event of a violation or breach of any of these restrictions by any person, firm or corporation, the Owner of any Lot in the Subdivision shall have the right to proceed at law or in equity to compel compliances with the terms hereof or to prevent the violation or breach of any one of them. The failure to enforce any right, reservation, restriction or condition contained herein however long continued shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

24. MODIFICATION. The restrictions herein may be modified prospectively upon the written consent of all fee title owners of the Lots; provided, however, the Developer so long as an owner of any Lot reserves the right to prospectively amend the dwelling size as set forth in Section 3 of any Lot owned by the Developer by filing an amendment hereto or setting forth the

amendment in the deed of conveyance of said Lot; provided, the dwelling size may not be decreased or increased by more than fifteen percent (15%) of the original dwelling size as set forth in this Declaration.

25. SEVERABILITY. Invalidation of any one of these covenants or conditions by judgment or order of any court shall in no way affect any of the other provisions which shall remain in full force and effect.

IN TESTIMONY WHEREOF, Tobacco Warehouse Investment Corporation, a North Carolina Corporation, has caused this instrument to be executed upon authority of its Board of Directors, as of the day and year first above written.

TOBACCO WAREHOUSE INVESTMENT CORPORATION

By: T. Stewart Suber
President

ATTEST:
R. Gibson
Secretary

(CORPORATE SEAL)

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NORTH CAROLINA

Nash COUNTY

I, Barbara L. Dickens, a Notary Public for said County and State, certify that Norma R. Gibson personally came before me this day and acknowledged that she is Secretary of TOBACCO WAREHOUSE INVESTMENT CORPORATION, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by self as its Secretary.

Witness my hand and official stamp/seal, this the 12th day of January, 2000.
(OFFICIAL STAMP/SEAL) Barbara L. Dickens
Notary Public

My Commission Expires:

10-25-2000

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Barbara L. Dickens
Notary Public
Nash County, NC

STATE OF NORTH CAROLINA,
COUNTY OF SCOTLAND.

The foregoing certificate of BARBARA L. DICKENS, a Notary Public, is certified to be correct. This instrument was presented for registration and recorded in this office at 12:16 o'clock, P.M. in Book 622, Page 251, Scotland County Registry.

This 13th day of JANUARY, 2000

Quen A. Brannon, Not.
Jamb P. Callahan, Register of Deeds, Scotland County, North Carolina.

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