

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

THIS IS A DECLARATION made as of March 17, 2000 by H.W. Owens, Inc. ("Declarant").

Declarant is the owner of real estate (the "real estate") in Chesterfield County, Virginia, consisting of two parcels containing 92.16 acres and 0.6110 of an acre, or a total of 92.771 acres, described in Exhibit "A".

Declarant intends to develop the real estate as single-family residential lots according to a common plan or scheme of development and it is the purpose of this Declaration to declare and impose covenants and restrictions to which the real estate shall be subject.

Declarant declares that the real estate shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real estate and shall be binding upon all parties having any right, title or interest in the real estate, their heirs, successors and assigns, and shall inure to the benefit of each owner of the real estate after it has been subdivided into single family residential lots.

ARTICLE I  
Definitions

1.01. Association. "Association" shall mean Old Hundred Association, its successors and assigns.

1.02. Common Area. "Common Area" shall mean all real property owned by the Association and all easement rights granted to the Association for the use and enjoyment of the Members of the Association.

1.03. Declarant. "Declarant" shall mean H.W. Owens, Inc., a Virginia corporation.

1.04. Lot. "Lot" shall mean any residential parcel of land shown upon the recorded subdivision plat of Old Hundred Subdivision.

1.05. Owner. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot in the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. In the cases in which title to a Lot is held by more than one person or entity, such persons or entities collectively shall be entitled to one vote.

1.06. Subdivision. "Subdivision" shall mean Old Hundred, consisting of 212 lots.

1.07. Subdivision Plat. "Subdivision Plat" shall mean the subdivision plats for Old Hundred.

ARTICLE II  
Membership and Voting Rights

2.01. Members. The Owner of each Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

2.02. Voting Rights. The Association shall have two classes of voting membership:

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

Class B. The Class B member shall be the Declarant who shall be entitled to three votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the happening of either of the following events, whichever shall first occur:

a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

b) On June 1, 2003;

c) When the Declarant, in its sole discretion, determines to withdraw from Class B membership in the Association and so notifies the Association in writing.

2.03. Management. The affairs of the Association shall be managed by its Board of Directors which shall elect the officers of the Association. Provided, however, the Common Area shall not be mortgaged, pledged as security for a loan or conveyed without prior approval of at least two-thirds of the Class A members.

ARTICLE III  
Property Rights in the Common Property

3.01. Owner's Easements of Enjoyment. Every Owner shall have a right and easement in the Common Area which right and easement of enjoyment shall be appurtenant to and shall pass with the title to each Lot subject to the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for a period not to exceed 90 days at a time for an infraction of the published rules and regulations of the Association.

ARTICLE IV  
Covenants for Maintenance Assessments

4.01. Creation of the Lien and Personal Obligation for Assessments. Except as provided in paragraph 4.07, the Owner of any Lot by acceptance of a deed to a Lot, shall pay to the

Association: a) annual assessments or charges, and b) special assessments for capital improvements, such assessments to be established and collected as provided below. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on and shall be a continuing lien upon the Lot against which each such assessment is made. Each assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who is the Owner of such Lot at the time the assessment falls due. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor.

4.02. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the general appearance of the Subdivision and for the improvement and maintenance of a) any improvements or structures located at the entrance to the Subdivision; b) buffer areas and fences; c) any retention or detention facilities located within the Subdivision; d) common areas within the Subdivision; and e) recreation areas within the Subdivision.

4.03. Maximum Annual Assessment. The Board of Directors of the Association may, in its sole discretion, fix the annual

assessment; however, in no event shall such assessment exceed an amount to be determined as follows:

a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be seventy-five dollars per Lot.

b) After January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than twenty percent above the maximum assessment for the previous year without a vote of the membership.

c) After January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above twenty percent at a meeting called for such purpose by a vote, in person or by proxy, in which a quorum (as provided in the By-Laws of the Association) is present.

4.04. Special Assessments for Capital Improvements. In addition to the annual assessments authorized in Section 3.03 of this Article, the Association may levy, in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying the cost of construction or reconstruction, unexpected repair or replacement of any capital improvement; provided that any such special assessment shall receive the

assent, in person or by proxy, of two-thirds of each class of members, at a meeting called for such purpose.

4.05. Notice for any Action Authorized Under Sections 4.03 or 4.04. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.03 or 4.04 of this Article IV shall be sent to all members not less than thirty days nor more than sixty days in advance of such meeting at the last address furnished to the Association by such members.

4.06. Uniform Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly, bi-monthly, quarterly, semi-annual or annual basis.

4.07. Date of Commencement of Annual Assessments; Due Dates. The annual assessments shall commence as to any Lot on the first day of the month following the conveyance of a Lot upon which a residence has been constructed, to an Owner acquiring the Lot for residential purposes. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty days in advance of each annual assessment period and written notice of such assessments shall be sent to every Owner. The due dates shall be established by the Board of Directors. 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 against a specified Lot have been paid.

4.08. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty days after the due date shall bear interest from the due date at the rate of twelve percent per annum. The Association may bring an action at law against the Owner personally obligated to pay such assessment or foreclose the lien against the delinquent Owner's Lot.

4.09. Lien. Any assessment shall constitute a pro-rata lien upon the individual subdivision Lots, inferior in lien and dignity only to real estate taxes and bona fide recorded first lien deeds of trust.

4.10. Subordination of the Lien to Deeds of Trust. The lien of the assessment shall be subordinate to the lien of any first lien deed of trust, but the Association shall have a lien upon the proceeds from any foreclosure junior only to the foreclosed first lien deed of trust and senior to the equity of redemption of the mortgagor. The sale or transfer of any Lot shall not affect the assessment lien, except that the sale or transfer of any Lot pursuant to the foreclosure of a first lien deed of trust or any proceeding in lieu of foreclosure shall



extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any subsequent assessment.

4.11. Duties of Note Holders Secured by Deeds of Trust.

No mortgagee shall have any obligation or duty to collect assessments provided for in this Declaration.

4.12. Effect of Delinquent Assessments on Mortgages.

The failure of an Owner to pay an assessment shall not result in a default under a deed of trust on such Owner's Lot.

ARTICLE V

Use, Restrictions and Rules

5.01. Use of Lots. No Lot shall be used except for

residential purposes. Only one residence may be constructed on each Lot.

5.02. Living Space Requirement. No dwelling house shall

be constructed or erected upon any Lot with total floor or living space, exclusive of basements, porches, breezeways, garages and unfinished storage space of less than:

1800 square feet on homes over one story

1600 square feet on single-story homes or as otherwise

restricted by the Chesterfield County zoning ordinance.

5.03. Noxious or Offensive Trade or Activity: No

noxious or offensive activity shall be carried on upon any Lot,

nor shall anything be done on any lot which may be or may become an annoyance or nuisance to the neighborhood. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept, provided they are not kept, bred or maintained for commercial purposes.

5.04. Architectural Control. No building, or other structure shall be erected, placed, altered or permitted to remain on any Lot unless the construction plans and specifications and the location of such building or other structure shall have been approved in writing by an Architectural Control Committee designated by the Declarant (the "Committee"). If the Committee fails to approve or disapprove any such plans, specifications and location within two weeks after the receipt of a complete set of such plans and specifications, then approval shall not be required, but will be deemed to have been waived. The Committee shall function until houses have been constructed on each Lot and sold to an ultimate purchaser. Thereafter, a new committee shall be formed and the members selected by the affirmative vote of 66  $\frac{2}{3}$ % of the record owners of the Lots in the Subdivision.

5.05. The construction of any structure on a Lot shall be completed with a period of nine months after the beginning of

construction. During construction, each Lot shall be maintained in a clean and uncluttered condition free of unnecessary accumulation of waste and building debris.

5.06. No construction shall be permitted without appropriate erosion control so as to prevent the discharge of any soil or other materials onto any other Lot or the Common Area. The Committee may establish reasonable rules and regulation establishing a maximum percentage of any Lot which may be covered by a building, driveway or other structure.

5.07. No Lot Owner shall disturb or siltate shoulder, backslopes, ditches, pavement curb and gutter, driveway culverts, or any other improvements within the public right of way. Each Lot Owner agrees to be responsible for disturbances, damages, and/or siltation caused by themselves, their employees, suppliers, contractors, or others and shall have fourteen days from the receipt of a letter from the developers and/or the Committee to remedy the damage. If a Lot Owner fails to remedy the damage in a workmanlike manner, the Declarant or its assigns shall have the right to remedy the damage and bill the Lot Owner directly on a cost plus fifty percent basis. If a Lot Owner does not make payment within thirty days of presentation of the bill, a two percent per month service charge shall be applied to such bill.

5.08. Outbuildings. No trailer, tent, shack, garage, barn, outbuilding, basement or any structure of a temporary character, erected on any Lot shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. Storage sheds, garages and other outbuildings must be of the same type and quality of construction as the dwelling on any Lot.

5.09. Clearing the Floodplain and Buffer. Clearing or otherwise altering the area within the 100 year floodplain or buffer on any Lot shall not be permitted except with respect to the installation and maintenance of utility and drainage facilities.

5.10. Strip Clearing. Strip clearing of the trees from any Lot shall not be permitted.

5.11. Except for emergencies, which emergencies must be proven to the satisfaction of the committee, no trees with a diameter of six inches or more, measured two feet from the ground, flowering trees, shrubs or evergreens may be cleared from any Lot without prior written permission of the Committee. In the event a Lot Owner violates this restriction, the Lot Owner shall be fined \$25.00 per inch for every such tree removed and it shall be assumed that each tree had a minimum diameter of twelve inches.

9 5.12. Above-Ground Pools. No above-ground swimming pools shall be permitted on any Lot without the approval of the Architectural Control Committee.

5.13. Setback Lines. The building setback requirements for front and side streets for Chesterfield County, Virginia shall be observed.

5.14. Signs. No sign of any kind shall be displayed to the public view on any Lot except a) one sign of not more than five square feet advertising the property for sale or rent; b) signs used by a builder to advertise the property for sale during the construction and sales period; c) sign or signs setting forth the name of the Subdivision.

0, 5.15. Garbage. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers which shall be surrounded by wooden screening which must be approved by the Committee. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and only in rear yards out of sight of any street.

5.16. Motor Vehicles. No commercially licensed vehicles, motor vehicles, recreational vehicles, boats, disabled vehicles, vehicles without a current state license or state

inspection sticker, machinery, or other equipment shall be visible from the street for a period of exceeding twenty four hours. Any screening of such vehicles must be approved by the Committee. This restriction shall not apply to vehicles and equipment used in connection with construction upon Lots, while such construction is in progress, or in connection with the development of the Property. It shall be the responsibility of each Owner to construct and maintain suitable and adequate parking space on such Owner's Lot and all vehicles shall be parked on such Lot.

The operation of unlicensed motor bikes, ATVs and motorcycles on the Lots and entrance and Common Areas within the Real Estate shall be subject to regulation by the members and may be prohibited entirely.

5.17. Television Antennas and Satellite Dishes. No exterior television or other antennas, parabolic or satellite communication dishes or any other equipment for the purpose of receiving or sending radio or television signals shall be permitted on any lot unless approved in writing by the Committee. No free standing flagpole or like structure shall be permitted on any Lot.

5.18. Walls, Fences, etc. No wall, fence, hedge, mass planting or similar obstruction more than three feet in height

shall be erected or permitted to remain on any Lot between the street right of way line and the rear line of any residence. No fence of any type or height shall be erected or permitted on any Lot unless approved in writing by the Committee.

5.19. Maintenance of Property. All Lots and improvements on any lot shall be kept in good order and repair and free of debris including, but not limited to the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery, all in a manner and with such frequency as is consistent with good property management. Vegetable gardens shall be allowed in rear yards only.

5.20. Window Air Conditioning Units. No portable air conditioning units shall be placed in any window of a dwelling so as to be visible from the street.

5.21. Mail Boxes. No mail box shall be placed on a Lot until the size, shape and color have been approved in writing by the Committee.

5.22. No external illumination on any Lot shall be of such a character or intensity or so located as to interfere with any other Owner's use or enjoyment of his Lot. No neon or flashing lights shall be permitted. All external lighting must be approved as to size and intensity by the Committee.

ARTICLE VI  
Easement for Utilities

6.01. Reservation by Declarant. Declarant reserves unto itself, its successors and assigns, a perpetual easement and right of way on, over, along and under the streets and roads of the Subdivision and over the easement areas designated on the Subdivision Plat to install, maintain and use underground electric, cable television and telephone wires, cables, conduits, drainage ways, sewers, water mains and other equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage or other public convenience or utilities as may be necessary to serve the Subdivision. These easements and rights expressly include the right to cut any trees, bushes or shrubbery or to take any other action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance.

ARTICLE VII  
Enforcement

7.01. Enforcement. Declarant, the Association or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or later imposed by the provisions of this Declaration. If in any litigation for the enforcement of these covenants, conditions and restrictions, the Declarant, the



9 Association or any Owner bringing suit prevails, such Plaintiff shall be entitled to be reimbursed for reasonable attorney's fees incurred in seeking such enforcement. Failure to enforce any of these covenants or restrictions shall not be deemed a waiver of a later right to do so.

7.02. Invalidation. Invalidation of any of these covenants by judgment or court order shall not affect any of the other covenants which shall remain in force and effect.

ARTICLE VIII  
Term and Amendment

8.01. Term. These covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty five years from the date these covenants are recorded, after which time they shall automatically be extended for an additional period of ten years unless an instrument signed by a majority of the then owners of the Lots has been recorded, agreeing to change the covenants in whole or in part.

8.02. Amendment. At any time after Declarant has conveyed all of the Lots in the Subdivision and after approval of all plans and specifications for initial construction on all such Lots, these restrictions may be waived or modified by written agreement of eighty percent of the then Owners in the Subdivision.

H.W. OWENS, INC.

By: Kenneth W. Owens  
Kenneth W. Owens, President

CITY OF RICHMOND, VIRGINIA

This Declaration of Covenants, Conditions and Restrictions was acknowledged before me on March 17, 2000 by Kenneth W. Owens, President of H.W. Owens, Inc.

My commission expires: 3/31/2003

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Notary Public

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Exhibit "A"

PARCEL I-

A parcel of land, in Clover Hill District, Chesterfield County, Virginia, containing 92.160 acres, shown on plat by Balzer & Associates, Inc., dated January 23, 1996, a copy of which is attached to deed recorded in Deed book 3378, page 311, reference to which is made for a more specific description of such parcel.

Being the same real estate conveyed to H.W. Owens, Inc., by deed from Old Hundred Mill, Inc., dated September 15, 1998, recorded September 18, 1998, Clerk's Office, Circuit Court, Chesterfield County, Virginia in Deed Book 3378, page 311.

PARCEL II-

A parcel of land, in Clover Hill District, Chesterfield County, Virginia, consisting of 0.6110 of an acre, shown on plat of survey by Balzer & Associates, Inc., dated September 9, 1998, a copy of which is attached to deed recorded in Deed Book 3378, page 314, reference to which is made for a more specific description of such parcel of land.

Being the same real estate conveyed to H.W. Owens, Inc. By deed from William J. Rowe, Jr., dated September 17, 1998, recorded September 18, 1998, Clerk's Office, Circuit Court, Chesterfield County, Virginia in Deed Book 3378, page 314.

GPIN: 733683598500000 ✓  
Prepared By:  
S. Beale  
701 E. Franklin St., #1200  
Richmond, VA 23219

BOOK 4255 PAGE 1

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DECLARATION OF RESTRICTIONS  
OF  
OLD HUNDRED MILL SUBDIVISION, SECTION B  
CHESTERFIELD COUNTY, VIRGINIA

049603  
CIRCUIT COURT CLERK  
CHESTERFIELD CO., VA

THIS IS A DECLARATION OF RESTRICTIONS (the "Declaration"), made as of October 8, 2001 by H.W. Owens, Inc. ("Owner").

H.W. Owens, Inc. is the owner of the property described in the attached Schedule A (the "Property") which is a portion of Old Hundred Mill, Section B, Subdivision.

Owner desires to impose upon the Property restrictive covenants (the "covenants") expressing Owner's intent to preserve the Property in perpetuity in its natural state, by prohibiting wetland destruction or alterations, building construction, addition of fill material, cultivation, pruning or tree harvesting in the area designated as "Wetlands, Subject To Restrictive Covenants" on the plat referred to in Schedule A.

NOW, THEREFORE, THIS DECLARATION provides that Owner declares, covenants, and agrees, for itself and its successors and assigns, that the Property shall be held and sold subject to the following conditions and restrictions:

The Property shown on the plat as "Wetlands, Subject To Restrictive Covenants" referred to in Schedule "A" shall be preserved in perpetuity in its natural state, by prohibiting wetland destruction or alterations, building construction, addition of fill material, cultivation, pruning and tree harvesting. Additionally, the following activities shall be prohibited on the Property:

1. Destruction or alteration of wetlands on the Property other than those alterations authorized by the Norfolk District, U.S. Army Corps of Engineers (USACE) under permit number 99-RO177-02).

2. Construction or maintenance of buildings, mobile homes, fences or signs.  
However, boardwalks, wildlife management structures and observation decks may be placed in the wetlands provided that any such structure permits the natural movement of water and preserves the natural contour of the ground and subject to prior approval by the Norfolk District, U.S. Army Corps of Engineers (USACE).
3. Ditching, draining, diking, damming, filling, excavating, plowing, mining or drilling, removal of topsoil, sand or other materials and any building of roads or alteration in the topography of the Property in any manner except for maintenance of existing foot trails.
4. Removal, destruction and cutting of trees or plants (except as necessary to construct or maintain foot trails or for safety), planting of trees and plants, use of fertilizers and spraying with biocides.
5. Dumping of ashes, trash, garbage or other unsightly or offensive material and changing of the topography through the placing of soil or other substance or material such as land fill or dredged material. No such activities shall be conducted on the Property or adjacent property which could cause erosion or situation on the Property.
6. Cultivating, harvesting and logging.
7. The covenants contained in this Declaration shall not be altered in any respect without the express written approval and consent of Owner or its successor in interest and the Norfolk District, U.S. Army Corps of Engineers. The covenants contained in this Declaration runs only to the benefit of the United States through the Corps of Engineers, and the joinder of any other party or entity other than

Owner or its successor in interest and the Norfolk District, U.S. Army Corps of Engineers shall not be required to amend or vacate this Declaration.

8. The provisions of this Declaration shall be deemed individual and severable and the invalidity or partial invalidity or unenforceability of any one provision or any portion of this Declaration shall not affect the validity or enforceability of any other provision of this Declaration.
9. The provisions of this Declaration shall be enforceable by any proceeding at law or in equity by the United States Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service (or any owner of a lot within the Old Hundred Mill, Section B, Subdivision, or any non-profit corporation or entity whose primary purpose is environmental protection or preservation. Failure by any agency or owner to enforce any covenant or restriction contained in this Declaration shall not be deemed a waiver of the right to do so at a later date.

These covenants shall run with the Property and shall be binding on all parties and persons claiming under them. These covenants are voluntarily imposed by Owner in order to assure that the wetland impacts pursuant to permit #99-RO177-02 shall be minimal.

H.W. OWENS, INC.

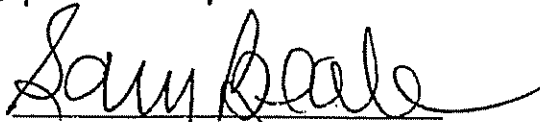
By: 

H.W. Owens, Chairman

Henrico County, Virginia

This Declaration of Restrictions was acknowledged before me on October 8, 2001 by  
H.W. Owens, Chairman of H.W. Owens, Inc.

My commission expires: 12-31-2004

  
Notary Public

Schedule A

Parcel A (1.331 acres); Parcel B (2.282 acres); Parcel C (2.961 acres); Parcel D (1.327 acres); Parcel E (0.613 of an acre); Parcel F (0.478 of an acre), such parcels being a part of Old Hundred Mill, Section B, Subdivision, as shown on plat by Balzer and Associates, Inc., entitled "Plat Showing 8.992 Acres Of Open Space Subject to Restrictive Covenants, Clover Hill District, Chesterfield County, Virginia, dated September 7, 2001, a copy of which is attached, reference to which is made for a more specific description of such parcels.

P.B. 120 P.S. 100

VIRGINIA:

IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF CHESTERFIELD COUNTY, THE 10 DAY OF OCT 2001, THIS DEED WAS PRESENTED AND WITH THE CERTIFICATE.... ADMITTED TO RECORD AT 10:48 O'CLOCK. THE TAX IMPOSED BY SECTION 58.1-802 IN THE AMOUNT OF \$ .00 HAS BEEN PAID.

TESTE: JUDY L. WORTHINGTON, CLERK