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LINCOLN COUNTY INDUSTRIAL PARK
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

Drawn by and mail to:
Mitchell, Rallings & Tissue, PLLC [jnt]
1800 Carillon
227 West Trade Street
Charlotte, NC 28202
704-376-6574

ARTICLE I	2
ARTICLE II	4
Section 1. Description	4
Section 2. Business Name	4
Section 3. Additions	4
Section 4. Form of Amendment	5
ARTICLE III	5
ARTICLE IV	5
Section 1. Description	5
Section 2. Common Rights	6
ARTICLE V	6
Section 1. Membership	6
Section 2. Classes of Membership	6
Section 3. Duties	6
ARTICLE VI	6
Section 1. Owners Class	6
Section 2. Founders Class	7
Section 3. Special Assessment and Amendments	7
Section 4. Exclusion of Designated Common Property	7
Section 5. Meetings and Notice	7
ARTICLE VII	7
Section 1. Creation of Lien and Personal Obligation of Assessments	7
Section 2. Purpose of Annual Assessments	8
Section 3. Maximum Annual Assessment	8
Section 4. Special Assessments	9
Section 5. Commencement	9
Section 6. Due Date	9
Section 7. Effect of Non-Payment of Assessment	9
Section 8. Exemption	9
Section 9. Contribution by	9
ARTICLE VIII	10
Section 1. Membership	10
Section 2. Duties and Powers	10
Section 3. Architectural and Site Guidelines	10
Section 4. Right of Inspection	10
Section 5. Variances	11
Section 6. Limitation of Scope of Approval	11
ARTICLE IX	11
Section 1. Meeting	11

Section 2. Materials to be Submitted for Site Plan Approval	11
Section 3. Filing Fee	11
Section 4. Approval Criteria	11
Section 5. Time for Review	12
Section 6. Certification of Approval	12
Section 7. Approval is not a Warranty.....	12
Section 8. Commencement of Work	12
 ARTICLE X	12
Section 1. Prohibited Uses.....	12
Section 2. Landscaping.....	13
Section 3. Reservation of Maintenance Option.....	13
Section 4. Street Parking.....	13
Section 5. Temporary Structures	13
Section 6. Discharges.....	14
Section 8. Violations	14
Section 9. Construction	14
Section 10. General Repair and Maintenance.....	14
Section 11. Utility Lines.....	14
 ARTICLE XI	14
Section 1. General Waste Management	14
Section 2. Underground Storage Tanks.....	15
 ARTICLE XII	15
 ARTICLE XIII	16
 ARTICLE XIV	16
Section 1. Right of Repurchase	16
Section 2. Utility Easements	17
Section 4. Exoneration of Declarants	17
 ARTICLE XV	17
 ARTICLE XVI	17
 ARTICLE XVII	17
Section 1 Mortgagees Protection.....	17
Section 2. Chain of Title.....	18
Section 3. Ambiguities	18
Section 4. No Reversionary Interest	18
Section 5. Zoning Requirements.....	18
Section 6. Effect of Invalidation.....	18
Section 7. Gender	18
 EXHIBIT "A" - Description of Property	
 EXHIBIT "B" - Initial Architectural and Site Guidelines	

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STATE OF NORTH CAROLINA

COUNTY OF LINCOLN

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

Drawn by and mail to:
 Mitchell, Rallings & Tissue, PLLC
 Joseph N. Tissue
 1800 Carillon
 227 West Trade Street
 Charlotte, NC 28202
 704/376-6574

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this the
20th day of November, 2000 by:

the North Carolina **County of Lincoln**, a body corporate and politic (hereinafter "Lincoln County");

M. Neil Finger et ux Mary Ann B. Finger, Carrie H. Finger (unmarried), **H. Linn Finger et ux Mary Lou S. Finger, G.A. Avram et ux Patricia F. Avram and Rowe Lamar Laney et ux Doris Laney** (collectively the "Finger-Laney Family");

Heafner Tire Group, Inc., a Delaware corporation which is the successor by merger of The J. H. Heafner Company, Inc., a North Carolina corporation ("Heafner"); and

TKC XXXV, LLC, a North Carolina limited liability company ("TKC");

who collectively are seised of the fee simple estate in that real property located in Lincoln County, North Carolina described in Exhibit "A", attached hereto and incorporated herein,

WITNESSETH THAT

In order to: (1) create a restricted, structured and high quality industrial park environment providing for a variety of uses; (2) provide for appropriate design of buildings, site arrangements, and amenities; (3) assure a satisfactory integration of the Industrial Park into the surrounding area; (4) enhance general development within the Industrial Park; (5) enhance the value, marketability, and quality of all property within the Industrial Park; (6) prevent construction of inappropriate Improvements; (7) provide for compliance with Applicable Laws concerning zoning, construction, safety, the public welfare and environment; (8) provide for an association of property owners within the Industrial Park; (9) create and maintain common areas with a high level of appearance and utility; (10) create reasonable and efficient review procedures to assist owners in the development of their Lots; and (11) provide the owners of Lots with the best possible value for their investment and to protect that investment; the undersigned Declarant and the other Owners do hereby, for the use and benefit of themselves and their successors and assigns, **DECLARE, RESERVE AND IMPOSE** upon the property described in attached Exhibit "A" the following conditions, covenants, reservations, easements and restrictions:

ARTICLE I Definitions

Words or phrases defined in this Article I shall be interpreted in accordance with that defined meaning whenever those words or phrases are used in this Declaration.

(a) **Applicable Laws** - All enforceable laws, regulations and ordinances validly promulgated and placed into effect by the County of Lincoln, the State of North Carolina, or the United States of America, including all zoning regulations of those governmental entities having jurisdiction as well as sign, street, tree and floodway ordinances, state and federal regulation of land use, environmental resources, hazardous materials and such general laws of all appropriate jurisdictions as may effect the Industrial Park.

(b) **Architectural and Site Guidelines** - Those rules, regulations and guidelines attached hereto as Exhibit "B" and those additional rules, regulations and guidelines promulgated by the Architectural Review Committee pursuant to the power set forth in Article VIII, Section 3. All Architectural and Site Guidelines, whenever promulgated, shall have the same force and effect as if they were originally set forth in this Declaration as restrictions.

(c) **Accessory Use** - The use of a Structure which is not one of the principal businesses carried on in that Structure.

(d) **Association** - The Lincoln County Industrial Park Property Owners Association, Inc., a North Carolina not-for-profit corporation which will be formed by Declarant.

(e) **Buffers** - Berming or vegetative screening erected to obscure the line of vision, or the flow of sound or wind.

(f) **Commencement of Construction** - Occurs when the Owner has obtained approval from the Committee for its final plans; obtained building, grading, driveway and other required permits from the appropriate governmental authorities authorizing construction according to those plans approved by the Committee; entered into a construction contract with a contractor holding the appropriate North Carolina license; and expended at least the sum of Twenty Five Thousand Dollars (\$25,000.00) pursuant to such construction contract for on-site construction work.

(g) **Committee** - The Architectural Review Committee established pursuant to Article VIII.

(h) **Common Property** - All property specifically and expressly declared to be such by Declarant, including such property as may, from time to time, be owned in fee simple by the Association for the common use and benefit of all Owners, including all related fixtures, improvements, apparatus and amenities. The appearance of amenities, streets, plantings, improvements or facilities upon maps, drawings or other illustrations and descriptions of the Industrial Park which hypothetically project its appearance at a future stage of development does not constitute the declaration or dedication of such amenities, streets, plantings, improvements or facilities as Common Property.

(i) **Declarant** - Lincoln County; or any bulk sale successor in title to all or substantially all the Property owned as of the date hereof by Lincoln County to whom the powers of the Declarant are expressly assigned (and accepted by said successor) in writing.

(j) **Declaration** - This Declaration of Covenants, Conditions and Restrictions as executed by the Declarant and Filed.

(k) File - The recording and proper indexing of record in the Office of the Register of Deeds for Lincoln County, North Carolina.

(l) Improvements - All buildings, out buildings, underground installations, roads, driveways, parking areas, fences, screens, retaining walls, stairs, decks, windbreaks, plantings, poles, signs, loading areas, cuts and fills, and all other structures or landscaping improvements of every variety and nature.

(m) Industrial Park - All property described in attached Exhibit "A", any additional property added and made subject to this Declaration as provided below in Article II, Section 3, and such businesses and improvements as shall come to be conducted or erected thereon and the amenities and infrastructure to be erected thereon.

(n) LEDA - the Lincoln Economic Development Association, a not-for-profit organization established for the purpose of promoting development to create employment opportunities, economic growth and an increased tax base to benefit the citizens of Lincoln County, North Carolina.

(o) Lessee - Any person or entity granted a leasehold interest to any portion of a Lot.

(p) Lot - Any parcel of land within the Industrial Park having ownership distinct from that of its adjoining parcels or subdivided as a distinctly separate parcel.

(q) Mortgage - Any deed of trust or security interest granted to an institutional lender to secure a loan of money to an Owner or other party in interest, which attaches to any Lot and is perfected or Filed.

(r) Occupant - Any party, whether or not an Owner, who is regularly present upon a Lot pursuant to either express or implied license or right.

(s) Open Space - Those areas of a Lot which are not improved other than by fills, cuts or the presence of underground utility lines. Open space shall include landscaping, natural areas, lawns, screening or buffer areas but it does not include any parking, loading, outdoor storage, trash handling, utility or service areas.

(t) Outdoor Storage - Any areas outside of a Structure, used for the temporary accumulation of inventory, materials, or other personalty. Outdoor storage does not include the stockpiling of materials which are to be incorporated into a Structure or Improvement by an Owners' contractor or subcontractor, so long as such materials are incorporated or removed within one hundred twenty (120) days.

(u) Owner - The person or entity holding the fee simple title to any Lot. The Declarant and the Exempt Owners are all "Owners".

(v) Principal Improvements - The primary Structures which, according to the final plans approved by the Committee, are to be built upon a Lot. Principal Improvements do not include such minor Structures as out-buildings or storage areas.

(w) Property - All that real estate described in attached Exhibit "A" plus such other real estate which may be additionally made subject to this Declaration as provided below in Article II, Section 3.

(x) Rear Setback - The Setback Distance from a rear boundary line of a Lot.

(y) Setback Distance - The distance between either a Lot boundary line or the edge of a street right of way, to a line within the Lot and parallel to the boundary line or the right of way, and within which

distance specified Improvements or other features are prohibited. Setback distances are identified in the Initial Architectural and Site Guidelines – See Exhibit B.

(z) Side Setback - The Setback Distance from a side boundary line of a Lot.

(aa) Sign - Any structure, component, fabric, device or display which bears lettered, pictorial or sculptured material designed to convey information or images and which is exposed to public view.

(bb) Street Setback - The Setback Distance from the edge of a street right of way.

(cc) Structure - A building, primarily designed and used for a business use as is permitted by this Declaration and/or the approval of the Committee.

(dd) Substantial Completion - The date upon which a temporary certificate of occupancy has been issued by the applicable governmental authority.

(ee) Temporary Structures - Any Structure not shown on the final site plan approved by the Committee, excepting such storage and operating trailers as may be necessary for those contractors and subcontractors in the employ of an Owner for the purpose of constructing those Improvements and Structures indicated on final plans approved by the Committee.

(ff) Utilities - Those lines and services in the nature of electric, telephone, catv, water, sewer, storm water management, natural gas, and the like which may be laid or distributed throughout the Industrial Park.

ARTICLE II

Property

Section 1. Description. The real property initially subjected to this Declaration is described in the Exhibit "A" attached hereto and incorporated herein.

Section 2. Business Name. The Property, the business conducted thereon and the amenities and infrastructure of the Property shall henceforth, collectively, be known as "The Lincoln County Industrial Park".

Section 3. Additions. At any time prior to the termination of the Founding Class Membership (see Article V, Section 2(b)), land adjoining the Property may be subjected to this Declaration by the filing of amended or supplementary declarations identifying the land and executed by all necessary parties to evidence:

the consent of Lincoln County (or after the termination of the Founding Class Membership, the consent of Owners holding 60% of the votes in the Association) to the addition to the Property;

the intent of the owner holding fee simple title to the addition that it be subjected to this Declaration, and shall thereafter be a portion of the Property; and

the consent and subordination of any lender holding a Mortgage upon the addition subordinating its security interest to the Declaration.

Upon the filing of such amended or supplementary declaration, the real estate added to the Property shall be subject to and entitled to the benefit of this Declaration and all terms of the subsequent

supplementary or amended declarations.

Section 4. Form of Amendment. Each amendment or supplementary declaration as referred to immediately above, shall contain the following provisions:

1. Reference to this Declaration and the date, book and page of its Filing in Lincoln County, North Carolina;
2. A precise legal description of the additional real estate (if any);
3. Language subjecting the additional real estate (if any) to this Declaration and its subsequent amendments or supplementary declarations; and
4. Such other covenants, restrictions or easements as Declarant (or 60% of the Owners as applicable) shall, in its discretion, additionally impose upon the subject real estate.

Section 5. Adjacent Property Not Specifically Described. From time to time an Owner may hold title or other interests in real estate adjacent to the Property. Unless such adjacent property is specifically described or included in the attached Exhibit "A" or the legal description of future supplementary or amended Declarations, such adjacent real estate shall not be deemed a part of the Property or the Industrial Park.

ARTICLE III Declaration

The Property shall hereafter be held, sold, leased, transferred, conveyed and encumbered subject to the herein contained covenants, conditions, restrictions, reservations, and easements which: (1) are made for the direct, mutual and reciprocal benefit of each and every portion of the Property and shall create mutual, equitable servitudes upon each part of the Property in favor of every other part of the Property; (2) create reciprocal rights and obligations between the respective Owners and privity of estate between all grantees of portions of the Property, their successors and assigns; (3) shall operate as covenants running with the land; and (4) shall inure to the benefit of the Declarant and each Owner.

By acceptance of any deed conveying title to a portion of the Property, acceptance of a lease or license concerning any portion of the Property or by taking possession of any portion of the Property, whether from Declarant or any other Owner or lessee, any future owner, lessee, licensee or occupant shall accept such deed, lease, license or possession upon and subject to each and all of the covenants, conditions, restrictions, reservations and easements set forth herein. Each person or entity who hereafter owns or acquires any right, title or interest in or to any portion of the Property shall be conclusively deemed to have consented and agreed to the covenants, conditions, restrictions, reservations and easements set forth herein, and in all rightfully Filed future supplements of or amendments to this Declaration, whether or not any reference thereto is contained in the instrument by which such person or entity acquires an interest in the Property.

ARTICLE IV Common Property

Section 1. Description. The Common Property may include any area then owned by the Declarant expressly and specifically designated as such in unambiguous terms by the Declarant or any area or facility owned by the Association. By way of example, Common Property may include non-publicly

maintained streets, drainage and sewage facilities, recreational areas, pathways, streets, medians, entrances, planting areas, and the like. Neither Declarant nor the Exempt Owners have any duty to construct Common Property.

Section 2. Common Rights. Every Owner shall have a non-exclusive, perpetual right and easement of benefit and enjoyment in and to the Common Property which easement shall be appurtenant to the Lot of said Owner, subject to this Declaration and the by-laws, rules and regulations adopted from time to time by the Association.

ARTICLE V

Property Owner's Association

Section 1. Membership. Every Owner must be a Member of the Association. Membership is only available to Owners and a Member's membership in the Association shall be extinguished upon the complete transfer of all Property held by that Member (except that Lincoln County shall remain a Member so long as any Property is held by either Lincoln County or the Finger-Laney Family). When an Owner transfers the fee simple interest in a Lot, the Grantee shall then become a Member of the Association.

Section 2. Classes of Membership.

- (a) Owners Class Membership. Prior to the termination of the Founders Class Membership, the Owners Class Membership shall consist of all Owners except for Lincoln County. After termination of the Founders Class Membership, the Owners Class Membership shall include all Owners and shall specifically include Lincoln County so long as Lincoln County or the Finger-Laney Family should own one or more Lots.
- (b) Founders Class Membership. Lincoln County (or a successor by way of bulk transfer) only, shall be the sole Founders Class Member. The Founders Class Membership shall terminate upon the first to occur of:
 - 1. December 1, 2015,
 - 2. Such time as Lincoln County and the Finger-Laney Family shall have conveyed all of their interests in the Property (including any additions), or
 - 3. At the discretion of Lincoln County as evidenced by a Filed writing.

Section 3. Duties. To the extent that the following duties are not performed by Lincoln County, they shall be the duty of the Association:

- 1. Provide for the upkeep and maintenance for any Common Property to such standards as the Association may deem appropriate;
- 2. Charge assessments as may be necessary for the purposes described herein;
- 3. Keep records of all assessments charged and the payments made thereon by the Owners; and
- 4. Collect assessments, maintain a bank account, and apply assessments to appropriate expenses.

ARTICLE VI

Voting

Section 1. Owners Class. Except for matters concerning special assessments, Owners Class Members shall not be entitled to vote until the termination of the Founders Class Membership, at which time

Owners Class Members shall be entitled to one vote for each acre owned in the Property plus a fractional (hundredths) vote for each fractional (hundredths) acre thereof. Lincoln County shall, at all times, have the right to exercise all votes allocated to the acreage of any Property owned by the Finger-Laney Family at the time of any vote; this right is in the nature of a proxy combined with an interest. The vote for any one Lot owned by more than one person or entity shall be exercised as they among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Lot be split or cast separately.

Section 2. Founders Class. Except for special assessments, the Founders Class Member shall be the only Member entitled to vote in the Association until such time as the Founders Class Membership terminates. The Founders Class Member shall be entitled to one vote for each acre owned in the Property plus a fractional (hundredths) vote for each fractional (hundredths) acre thereof (and for so long as Lincoln County is the Founders Class Member, Lincoln County shall be entitled to one vote for each acre in the Property plus a fractional (hundredths) vote for each fractional (hundredths) acre thereof then owned by any member(s) of the Finger-Laney Family). The vote for any one Lot owned by more than one person or entity shall be exercised as they among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Lot be split or cast separately.

Section 3. Special Assessments. On all matters concerning special assessments the voting shall be as follows:

- (a) Owners Class. The Owners Class membership shall have one vote for each acre owned of the Property plus a fractional vote for each fractional acre.
- (b) Founders Class. Any Founders Class Member shall have one vote for each acre owned of the Property, plus a fractional vote for each fractional acre.

Special Assessments may only be assessed upon receiving the following votes: (i) 51% of a vote of the combined Founders Class and Owners Class Members and (ii) 51% of the Members that are not exempt (at the time of the vote) from payment of Special Assessments pursuant to Article VII, Section 8.

Section 4. Exclusion of Designated Common Property. Designated Common Property shall be excluded for purposes of computation of voting rights.

Section 5. Meetings and Notice. The Bylaws of the Association shall provide for reasonable notice of all issues which require a vote notwithstanding that the Founders Class Member may be the only party entitled to vote on such issue. The Bylaws shall provide a mechanism for nonvoting Members to call for general meetings of the membership and to have such other forums as may be reasonably appropriate to present their ideas and opinions to the membership.

ARTICLE VII Assessments

Section 1. Creation of Lien and Personal Obligation of Assessments. Except as exempted in Section 8 of this Article VII, Owners shall be liable for, and shall pay, annual and special assessments. Each Owner of any Lot shall, by acceptance of a conveyance thereof, whether or not it is so expressed in any conveyance, be deemed to covenant and agree to all the terms and provisions of this Declaration and promises to pay to the Association both annual and special assessments and charges, such as are established and to be collected from time to time as hereinafter provided. The annual and special assessments and charges, together with such interest thereon and costs of collection as are hereinafter provided, shall be a charge and continuing lien upon the Lot against which such assessment is made as

of the effective date of said assessment. Each such assessment, together with interest thereon and any costs of collection as are hereinafter provided, shall also be the personal obligation of the person or entity who was Owner of such Lot at the time when the assessment became due. In the case of co-ownership of a Lot, all of such co-owners shall be jointly and severally liable for the entire amount of any assessment.

Section 2. Purpose of Annual Assessments. The Association may determine and assess annual assessments which shall be used for the improvement, maintenance, operation, repair, replacement of and additions to the Common Property, including, but not limited to, the payment of taxes and insurance thereon, the payment of utility charges related thereto (including water for any sprinkler or irrigation systems), maintaining, operating and improving streets, roads, drives and rights-of-way and other Common Property facilities and amenities, collection and disposal of garbage, rubbish and the like, employing security service, maintenance personnel, and for the cost of labor, equipment, materials, and the management and supervision thereof. Notwithstanding anything to the contrary, nothing herein shall obligate Declarant or the Association to build all or any portion of the facilities and amenities listed above as possible Common Property facilities and amenities. In addition, the Association may use annual assessments for the purpose of doing any other things necessary or desirable, in the discretion of the Association, to keep Common Property facilities and amenities in neat and good order, to provide for the health, welfare and safety of the Owners and Occupants of the Property, to advance or maintain the general appearance and function of the Industrial Park, and to carry out the eleven goals described in the preliminary statement of this Declaration. Notwithstanding any language in this Declaration to the contrary, annual assessments shall not be used at the direction of the Declarant or the Association for construction of infrastructure improvements in the nature of roadways, drives, or water, sewer or like utility lines, which are traditionally installed by a developer or Declarant, unless such use is expressly approved by a majority vote of the Owners other than those that are then Exempt Owners.

By acceptance of any conveyance of any Lot, each Owner acknowledges that neither the precise acreage and dimensions of the Common Property, nor the type of amenities, improvements and structures to be located within the Common Property have been (and may not be) specifically defined until the sale of the last Lot within the Property. Notwithstanding the lack of specificity relating to the size and development of the Common Property, each Owner acknowledges that it is a knowledgeable business person familiar with developments such as the one established under this Declaration and hereby agrees to accept and pay annual and special assessments levied by the Association pursuant to this Declaration. Each Owner agrees to accept such Common Property as may be designated and/or conveyed by the Declarant, provided that said Common Property must be located within the bounds of the Property.

Declarant may have formulated a general plan of development and use for the Property which may have previously been submitted to and reviewed by some or all of the Owners in the form of maps or other design information. Notwithstanding anything to the contrary, said maps or design information will not necessarily conform to the ultimate development of the Property.

Section 3. Maximum Annual Assessment. The maximum annual assessment shall be Three Hundred Dollars (\$300.00) for each acre, with fractions of acres and fractions of the calendar year to be computed and prorated equitably. For each calendar year beginning with 2003 and ending upon termination of the Founding Class Membership, the Association may annually increase the maximum annual assessment per acre over the assessment amount of the immediately preceding year by not more than the greater of: (i) five percent (5%), or (ii) the "applicable CPI increase". After termination of the Founding Class Membership, the maximum annual assessments shall be determined solely by the Association.

For purposes of this Article VII, Section 3, the term "applicable CPI increase" shall mean that amount by which the "CPI" for the month of October immediately preceding the calendar year of the proposed Assessment exceeds the CPI for the month of October one year earlier. "CPI" refers to the "Consumer Price Index" published by the Bureau of Labor Statistics of the U.S. Department of Labor (all Items, U.S. City Average, for urban wage earners and clerical workers, or a successor or substitute index appropriately adjusted).

The Declarant, Association, or other party who shall then maintain the books and records pertaining to assessments shall, upon written request by any Owner, issue within fifteen (15) days an estoppel certificate detailing the status of that Owner's assessment account and such letter will estop the Association and Declarant from later collecting any previously billed amount not listed thereon.

Section 4. Special Assessments. In addition to the annual assessments hereinabove authorized, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of the Common Property, including the necessary fixtures and personal property related thereto. Special assessments shall be assessed uniformly against all Owners on the basis of the acreage of each Owner's Lot, except that special assessments may be directly assessed against one or more individual Lot Owners if those Owners or their agents have damaged Common Property and created the need for the repair or reconstruction by their intentional or grossly negligent acts. Special assessments shall not be used for construction of new infrastructure in the nature of roadways, water or sewer lines or other infrastructure items typically constructed by a developer of industrial parks similar to the Lincoln County Industrial Park..

Section 5. Commencement. Assessments shall commence on the date fixed by the Association, but not prior to January 1, 2002.

Section 6. Due Date. Unless otherwise provided herein, assessments shall be due and payable in full within 30 days after they are billed to an Owner.

Section 7. Effect of Non-Payment of Assessment. If any assessment is not paid on the date when due, then such assessment shall be delinquent and shall accrue interest thereon at the "prime rate" published by the Wall Street Journal (or if such rate shall cease to be published, another national publication or national lender) plus two percent (2%) per annum (such rate to change from time to time as the prime rate changes) unless a lesser rate is required under Applicable Law in which event interest will accrue at the maximum required lesser rate. If such assessment is not paid within ten (10) days after the due date, then the Association may bring an action at law against the Owner directly and/or foreclose the lien against the Lot, and there shall be added to the amount of such assessments all reasonable attorneys' fees and costs incurred by the Association in such action, and in the event a judgement is obtained, such judgement shall include interest on the assessments as indicated above.

Section 8. Exemption. All property owned by Lincoln County, the Finger-Laney Family, Heafner and TKC (collectively the "Exempt Owners") shall be exempt from all assessments and special assessments and the liens therefore of every type, except as hereinafter expressly provided. Property currently owned by the Exempt Owners shall no longer be exempt upon transfer to any party other than another Exempt Owner. Property currently owned by TKC shall no longer be exempt at any time after the total improvements constructed thereon and having a certificate(s) of occupancy exceed 330,000 square feet of floor area. Property currently owned by Heafner shall no longer be exempt at any time after the total improvements constructed thereon and having a certificate(s) of occupancy exceed a floor space of 300,000 square feet.

Section 9. Contribution by Lincoln County. Lincoln County agrees that until the end of the Founders Class Membership it will contribute such funds to the Association as may be required to maintain any

Common Property to the standards required by this Declaration and the Architectural and Site Guidelines to the extent that the maximum annual assessments are insufficient to pay such costs..

ARTICLE VIII

Architectural Review Committee

Section 1. Membership. There is hereby established an Architectural Review Committee which will consist of not less than four (4) and not more than six (6) members.

One of the members selected by the LEDA must be selected from the following groups: licensed architects, engineers, landscape architects or persons with building construction experience. The other members need not have any specific professional certification.

Three (3) of the members shall be appointed by the LEDA and such appointees may be members or employees of the LEDA.

The Association shall select, and if necessary appoint successors for, the remaining membership of the Committee other than those members appointed by the LEDA. By written notice to the Association, LEDA may delegate its right to appoint members of the Committee to the Association. In the event that LEDA should dissolve or otherwise end its operations, the appointment right of LEDA shall pass to the Association.

Section 2. Duties and Powers. The Committee shall: (1) review and act upon proposals and plans submitted to it by Owners pursuant to the terms of this Declaration, (2) adopt Architectural and Site Guidelines, and (3) perform all other duties delegated to and imposed upon it by this Declaration.

Section 3. Architectural and Site Guidelines. The Declarant has promulgated certain rules, guidelines and statements of policy which will be known as the initial "Architectural and Site Guidelines." Hereafter, from time to time the Committee may, by majority vote interpret existing guidelines, and adopt, amend and repeal such rules, guidelines and statements of policy and thus modify the Architectural and Site Guidelines. The Committee shall not modify the development standards stated in the Architectural and Site Guidelines in a manner which so materially reduces the development standards that the character of the Industrial Park is changed.

At all times the Committee shall maintain copies of the most recently adopted Architectural and Site Guidelines in writing so that copies are available, upon request, to all Owners. Said Guidelines will interpret and implement the provisions of this Declaration by detailing the standards and procedures for review, guidelines for building and site design, placement of buildings and other improvements, landscaping, color schemes, lighting, parking, exterior furnishings, materials, signage and maintenance which may be used, or required, within the Industrial Park. Such guidelines may be interpretations and expansions of, but not in contradiction to, the terms of this Declaration.

The initial Architectural and Site Guidelines as well as all such rules, guidelines and statements of policy as may be approved and adopted, from time to time, by the Committee as Architectural and Site Guidelines shall be deemed incorporated as a part of this Declaration. The initial Architectural and Site Guidelines are attached hereto as Exhibit "B" and incorporated herein. Notwithstanding the powers granted to the Committee by this Section 3, no future Architectural and Site Guidelines or amendments thereto shall diminish the required development standards for the Property.

Section 4. Right of Inspection. Members and agents of the Architectural Review Committee may, at any reasonable and safe time enter upon a Lot (but only upon reasonable written notice to any Occupants if there are completed Structures upon the Lot) for the purpose of inspecting Improvements

and site development and their compliance with the Architectural and Site Guidelines.

Section 5. Variances. The Committee is hereby authorized and empowered to grant reasonable variances from the provisions of this Declaration or the Architectural and Site Guidelines in order to overcome specific development problems or hardship caused by strict application of the provisions of either this Declaration or the Architectural and Site Guidelines. Such variances, however, must not materially injure any of the Property, amenities or Improvements in the Industrial Park and must be made in furtherance of the spirit and purpose of this Declaration. The Committee is specifically empowered to, at its sole discretion, grant variances of setback requirements up to ten percent (10%) of the total Setback Distance required. The Committee will not, however, grant any variance for setbacks less than those required by applicable zoning ordinances unless the Owner also obtains a variance from the appropriate governmental authority empowered to grant such variances.

Section 6. Limitation of Scope of Approval. Approval by the Committee of any Improvement or use for a designated Lot shall not be a waiver of the Committee's right to reject a similar or identical Improvement or use upon another Lot (or the same Lot at another time) if such Improvement or use is of a nature that it may be rejected under the terms of this Declaration or the Architectural and Site Guidelines. Similarly, in light of the purpose of this Declaration, approval by the Committee of any specific set of plans does not bind the Committee to approve an identical set of plans submitted at another time.

ARTICLE IX

Review Procedures

Section 1. Meeting. The Committee may meet informally, by meeting, telephone, written communication, facsimile transmissions or such other means as the members may agree upon and as may be sufficient to conscientiously, and fully, perform its duties.

Section 2. Materials to be Submitted for Site Plan Approval. Before initiating any construction, material alteration of existing Improvements (including awnings, satellite dish, antenna or other attachment to roof or exterior), grading or any site or structural work upon any Lot, the Owner must first submit construction, site and landscape plans as described in the Architectural and Site Guidelines (see Exhibit "B").

Section 3. Filing Fee. In order to defray the expense of the Committee, the Committee may require a reasonable fee for review of plans. The filing fee may only be charged to defray reasonable actual out-of-pocket costs such as attendance fees or travel reimbursements to the Committee Members.

Section 4. Approval Criteria. The Committee shall specifically have the right to disapprove plans, specifications or details submitted to it for any of the following reasons:

1. The submission fails to comply with the terms of this Declaration or the Architectural and Site Guidelines;
2. Insufficient information or failure to provide detail reasonably requested by the Committee;
3. The submission fails to comply with the appropriate zoning, tree or signage ordinances or other Applicable Laws that may be in effect from time to time;
4. Perceived incompatibility with other proposed or existing Improvements or use;
5. Reasonable objection to the grading plan for any portion of the Lot;
6. Reasonable objection to design or location of loading or storage areas;

7. Reasonable objection to the finish, proportions, style, height, bulk or appropriateness of any Structures;
8. The plans are not prepared by licensed architects, engineers or landscape architects;
9. The plans do not adequately provide for surface water control, required screening or other planning matters which affect other Lots in the Industrial Park; and
10. Such other matters which, in the sole discretion of the Committee, would be inappropriate or inharmonious with the general plan of development within the Industrial Park.

Section 5. Time for Review. Upon submission of all detail reasonably requested by the Committee, the submitting Owner shall receive, in writing, the decision of the Committee within thirty (30) business days. Failure of the Committee to render a written decision within thirty (30) business days shall be deemed approval of the submission.

Section 6. Certification of Approval. Upon the request of Owner, the Committee shall confirm its approval of the Owner's plans by issuing a written certificate or letter describing the specific Lot and plans which have been approved.

Section 7. Approval is not a Warranty. Approval of the plans submitted by any Owner or other party to the Committee shall not be construed as a certification or warranty, by the Committee, that (1) the plans meet with any minimum standards of suitability for use, (2) are acceptable under any Applicable Laws, (3) conform to any other standards of quality or safety or (4) describe Structures or development which would be safe, prudent or feasible. Neither Declarant, the Committee, nor any member thereof shall be liable for any damage, loss or prejudice suffered or claimed by any person on account of the approval or disapproval of any preliminary plans, plans, drawings or specifications, construction or performance of any work or the development of any Property within the Industrial Park.

Section 8. Commencement of Work. Beginning with the approval of the Committee as described in this Article IX, the Owner or other parties submitting plans shall, as soon as practical, satisfy all conditions of the Committee and proceed with all approved work described in the plans and such other work as may be necessary for improvement of the Lot in accordance with this Declaration. Commencement of Construction must begin within one hundred eighty (180) days from the date of such approval or, the approval of the Committee shall lapse. The Committee may, at its discretion and upon the request of Owner, extend the one hundred eighty (180) day period for Commencement of Construction in the event that good cause is shown for such extension.

ARTICLE X Improvements and Uses

Section 1. Prohibited Uses. Any use which is not compatible with a high quality, controlled industrial park development and all of the following uses are prohibited:

1. Labor camps,
2. Refining of petroleum or any of its products,
3. Cemeteries,
4. Commercial or private raising of poultry, livestock or swine,
5. Feeder lots for any poultry, livestock or swine, rearing of any other birds, fish, insects, mammals, reptiles,
6. Animal kennels,
7. Junk yards,
8. Quarries,
9. Raceways,

10. Dry-cleaning,
11. Landfills,
12. Fuel oil dealers,
13. Sale of motor vehicle fuel,
14. Auto repair and maintenance,
15. Storage or transportation of hazardous waste materials other than de minimus amounts incidental to some other business use,
16. "Mini-warehouses", or
17. Unsightly, obnoxious or objectionable businesses which may produce or emit substantial gases, smoke, odors or noises that would be unsuitable for a high quality, controlled industrial park development.

Section 2. Landscaping. All landscaping must conform with those requirements set forth in the Architectural and Site Guidelines. If any Owner fails to undertake and complete the landscaping required within such time limits as are adopted from time to time as part of the Architectural and Site Guidelines, the Association may, at its option, after giving the Owner ten (10) days written notice, begin and thereafter pursue with diligence the completion of landscaping in accordance with the Owner's plans. If the Association shall undertake such landscaping, the costs shall be assessed against the Owner and if not paid within thirty (30) days after written notice of assessment from the Association, said assessment shall constitute a lien upon the Lot and may be enforced as set forth herein. The Architectural and Site Guidelines shall contain specific maintenance standards for the landscaping and Open Space of Lots. All Owners are required to maintain the terrain and landscaping of their Lot to a standard of quality equal, at a minimum, to the standard maintained by the Association in the landscaping and upkeep of the Common Property. If, in the reasonable discretion of the Association, any Owner fails to observe the required maintenance standards for the terrain and landscaping of that Owner's Lot, the Association will provide written notice to the Owner of such failure. Thereafter, the Owner will have a period of thirty (30) days within which to reasonably and expeditiously commence corrective procedures for the landscaping of its Lot. If the Owner has not commenced reasonable and expeditious procedures within thirty (30) days, or if after a reasonable period of time Owner has failed to complete such corrections, the Association may enter upon the Lot and improve the landscaping to a grade equal to that of the Common Property. All costs of such corrective action will then be assessed against the Owner. The Owner will pay all such costs assessed within fifteen (15) days. If the assessment is not paid when due, then such assessment shall be delinquent and shall accrue interest at the rate set forth previously in Article VII, Section 7. The assessment shall be a lien against the Lot and the Association shall retain all remedies as described in Article VII, Section 7.

Section 3. Reservation of Maintenance Option. There is reserved, for the benefit of the Association, an option of exclusive maintenance upon and over the frontage of any Lot, of up to twenty (20) feet in width. This option shall run along and with the margin of the right of way of all public or private streets within, or adjoining, the Industrial Park. The Association may exercise its option of exclusive maintenance either on a continuing basis or from time to time at its sole discretion. This option may be exercised with respect to all Lots or only to selected areas, all in the sole discretion of the Association. All expenses of this maintenance option shall be assessed by the Association as annual or special assessments.

Section 4. Street Parking. On street parking is prohibited within the Industrial Park.

Section 5. Temporary Structures. Temporary Structures are prohibited within the Industrial Park, with the exception of such trailers or storage facilities as may be employed by a contractor, subcontractor or agent of an Owner engaged in construction upon a Lot pursuant to plans approved by the Committee.

Section 6. Discharges. All uses of any Lot which will emit dust, dirt, cinders, sweepings, noxious or odoriferous gases or hazardous materials into the atmosphere or which discharge wastes of any nature or other harmful matter into the soil, ground water, any stream, river, pond, lake or other body of water, which in the sole discretion of the Committee may adversely effect the safety, health, comfort or intended property use by persons within the Industrial Park, are strictly prohibited.

Section 7. Violations. In the event that any Lot is developed or improved other than in strict conformity with this Declaration and the approval of the Committee, any such Improvement or development must be removed or altered so as to be in compliance and any unauthorized use of the Lot must be ended so as to extinguish any violations of this Declaration or the approval granted by the Committee. At any time a violation of this Declaration or the approval granted by the Committee may be found to exist, regardless of the length of time of such violation, the Declarant or the Committee may deliver written notice of such violation to the Owner of the Lot in violation and any other responsible parties. If reasonable measures have not commenced and been diligently pursued by the Owner or other responsible parties to terminate the violation within ten (10) business days, the Declarant or Committee may, through agents or employees, enter onto the Lot and take such measures as may reasonably be necessary to abate the violation. Such entry shall not be deemed a trespass and those parties entering on behalf of Declarant or the Committee shall have no liability to the Owner or other parties having an interest in the Lot for any entry taken in connection with the abatement of a violation. All costs and expenses, including legal fees, permits, mobilization costs and insurance plus fifteen percent (15%) of such cumulative costs and expenses for general overhead and intangible costs, shall be a binding obligation of the Owner of the Lot in violation. In addition, all costs shall be a lien upon the Lot, enforceable in the same manner as an assessment made upon the Lot.

Section 9. Construction. Construction of all Improvements and other development upon the Lot shall be the responsibility of the Owner. Neither Declarant nor the Committee shall have any responsibility whatsoever for monitoring or control of construction.

Section 10. General Repair and Maintenance. It shall be the duty of Owner to keep and maintain all of the Lot, except as expressly stated otherwise herein, including those areas within Setback Distances, easements and Open Space. The Owner shall keep the entire Lot safe, neat, free of hazards and shall comply with all fire, zoning, health, environmental and other requirements as may legally apply to the Lot. Owner shall keep the Lot clear, clean and free of all unsightly scrap, rubbish or other materials at all times, including the construction period.

Section 11. Utility Lines. No above ground utility service lines shall be constructed within the Industrial Park. Only distribution lines supplying service to the entire site of the Industrial Park may be located above ground.

ARTICLE XI

Waste Management and Environmental Hygiene

Section 1. General Waste Management. Because releases of hazardous or toxic materials upon any Lot within the Industrial Park could have enormous adverse impact upon any or all of the other Lots and other Property within the Industrial Park, each and every Owner hereby covenants and warrants that it will observe all requirements of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Resource Conservation and Recovery Act ("RCRA"), Clean Air Act, Clean Water Act, the Refuse Act, Toxic Substances Control Act, Safe Drinking Water Act, the North Carolina Oil Pollution and Hazardous Substances Control Act ("OPHSCHA") and all other federal, state and local statutes, laws, regulations and ordinances concerning the creation, storage,

transportation or release of substances injurious to life forms or the environment, including but not limited to, "hazardous substances" as defined under CERCLA and "oil or other hazardous substances" as described in OPHSCHA.

Section 2. Underground Storage Tanks. Before installation of any underground storage tank ("UST"), the Owner shall deliver to the Association a site plan or survey showing the exact proposed location of the UST. Copies of all permits issued in connection with all UST's shall be delivered to the Association upon their receipt by Owner. Unless other means of inspection are more appropriate, the Owner shall make periodic soil borings (or test with a geoprobe or any other effective technology then available), at each end of the UST, according to the following schedule, shall submit the boring sample to professional and qualified technicians for analysis and shall report the findings generated after sampling analysis to the Association. The borings will be required at the following intervals: five years following installation, ten years following installation, twelve years following installation and every two years thereafter. In the event that leakage or soil contamination is indicated at any time, the Owner shall immediately, at its sole expense, take all remediation measures required by Applicable Laws.

ARTICLE XII

Duration, Modification and Termination

The restrictions contained in this Declaration shall be appurtenant to and run with the land and shall be binding upon and inure to the benefit of Declarant, the Owners, Licensees, Occupants, their heirs, successors and assigns, and all other parties hereinafter having an interest in any of the Property and all parties claiming under them. This Declaration shall be effective for a period ending on December 1, 2021, after which time it shall be automatically extended for up to four (4) successive periods of 10 years each (for a total including the initial term of 61 years) unless subsequent to December 1, 2021, the Owners holding at least 60 percent of the votes in the Association vote to not continue this Declaration at the end of the next expiring 10 year period and File appropriate evidence of the non-renewal. At any time during the effective period of this Declaration, but not sooner than fifty years after this Declaration is originally Filed, the Owners may vote to extend the maximum effective period to a specific date beyond a 61 year term and such vote will be binding and effective on all Owners in the Industrial Park if approved by a seventy five percent (75%) vote.

Prior to the termination of the Founders Class Membership (see Article V, Section 2(a)), this Declaration may be modified or amended by Filed supplementary or amended declarations signed by Declarant Lincoln County without the vote or joinder of any other Owner. See Article II, Sections 3 and 4 for specific requirements to add additional lands to the Property.

After the termination of the Founders Class Membership, the restrictions contained herein may be modified by the Filing of an instrument in good legal form setting forth any modifications, deletions or changes which instrument is executed by Owners holding at least sixty percent (60%) of the votes in the Association.

No material amendment or modification of this Declaration or the Architectural and Site Guidelines shall be enforceable against any Owner with respect to such Owner's Lot unless the Owner of the affected Lot consents in writing to such amendment or modification. Notwithstanding anything to the contrary set forth herein, an amendment or modification shall be deemed material if such amendment or modification (i) requires the Owner of the affected Lot to make modifications to existing Improvements, (ii) burdens the affected Lot in any adverse manner, (iii) restricts in any material manner the uses permitted on the affected Lot or (iv) encumbers the affected Lot with additional building or other restrictions. Additions to the Property shall at no time be deemed a material amendment or modification of this Declaration. Neither increases in Assessments within the limits

defined in Article VII nor the authorized assessment of Special Assessments are, for purposes of this paragraph, amendments or modifications of this Declaration.

This Declaration shall not be modified in any manner which increases the number, or expands the identity, of those Owners defined as "Exempt Owners" in Article VII, Section 8.

ARTICLE XIII Enforcement

Any violation of this Declaration, whether in whole or in part, is hereby declared to be a nuisance and, without limitation, any party empowered to enforce this Declaration may avail itself of all remedies available under Applicable Laws for the abatement of a nuisance in addition to all other rights and remedies set forth hereunder or otherwise available at law. This Declaration may be enforced by any Owner or the Association by proceedings at law or in equity against the person or entity violating or attempting to violate any covenant or restriction, either to restrain the violation thereof, abate or remediate damage caused by the violation, or to recover damages, all together with reasonable attorney's fees and court costs. In addition to the remedy of enforcement as provided above, the Association and the Committee shall have the right, through their agents and employees, to enter upon the Lot and summarily abate, remove and extinguish any thing or condition that may exist thereon contrary to the provisions hereof and said parties shall not thereby be deemed to have trespassed upon such Lot and shall be subject to no liability to the Owner or Occupant of such Lot for such entry, abatement or removal. The cost of any abatement or removal of violations authorized under this Declaration shall be a binding, personal obligation of the Owner of the Lot upon which such violation has occurred as well as a lien, enforceable in the same manner as an assessment against a Lot, upon such Lot. No failure to exercise its enforcement powers shall be deemed a waiver thereof by the Declarant or the Committee.

In addition to all other rights and remedies available for the enforcement of this Declaration, the Association may, beginning 30 days after delivery of written notice to the Owner of a Lot on which a violation is occurring, impose a fine against such Owner for each day the violation continues following delivery of the notice. The fine imposed hereunder shall not exceed \$50 (increasing by 5% per calendar year with the first such increase effective January 1, 2003) per day. The fine shall constitute a lien against the Lot on which the violation occurs, which may be enforced in the same manner as the lien for an assessment. Any such notice to an Owner shall describe the Lot, the specific violation, a reference to the provisions of the Declaration, or Architectural and Site Guidelines which are being violated, and a notice that a fine will be levied if the violation is not cured within a 30-day period. The notice shall be deemed delivered if sent by certified mail, return receipt requested, posted in a prominent location upon the Lot, or sent to the Owner via national overnight courier service.

ARTICLE XIV Easements, Retained Rights and Option to Acquired Unimproved Lots

Section 1. Option upon vacant Lots. In the event that Commencement of Construction has not occurred upon a Lot within thirty six (36) months following the conveyance from an Exempted Owner to any other Owner (the "Building Period"), the Declarant shall have the right to purchase that Lot at any time within twenty four (24) months after the expiration of the Building Period (the "Notice Period") so long as Commencement of Construction has not occurred prior to such time as Declarant gives notice to the Owner that Declarant elects to exercise its purchase right. In order to exercise this Option, the Declarant must give written notice to Owner within the Notice Period and tender the

purchase price within 60 days following the delivery of notice. The repurchase price shall be that price paid by the non-building Owner at the time of original acquisition. All outstanding liens, mortgages, and other encumbrances upon the Lot shall be paid from the Owner's closing proceeds; Upon tender of the purchase price, Owner shall convey the Lot to the Declarant by Special Warranty Deed. Owners expressly agree that the Declarant is entitled to specific performance of all duties imposed upon Owners by this Section.

Section 2. Utility Easements. There is reserved permanent non-exclusive easements and rights-of-way over, under, along and within those twenty foot (20') strips of land located contiguous to and within the front, side and rear boundary lines of each and every Lot for the installation and maintenance of such Utility lines, conduits, pipes and other equipment necessary for furnishing electric, natural gas, telephone service, water, sanitary sewage service and other like services to any other Lot. Also reserved is a temporary general right of access as is necessary from time to time to do installation or maintenance work within such twenty foot (20') easements. This reservation of easements does not prohibit construction of driveways or parking areas at locations approved by the Committee. All installation will be done in a manner to reasonably minimize inconvenience to the Lot Owner and damage to the Lot or any Improvements. Upon completion of Installation, all disturbed areas will be returned to a stable fine graded surface and replanted and tended so that, after the grow in period, the surface is substantially similar to that existing prior to the beginning of Installation work. Any Improvements which are temporarily cut or removed during the installation process shall be reinstalled or repaired to a condition substantially the same as that existing prior to the installation work.

Section 3. Exoneration of Declarant. It is agreed by all Owners and by any other party having an interest in any Lot that neither Declarant nor the Exempt Owners have any duty to enforce any of the covenants and restrictions contained herein. The organizational documents of the Association shall reflect the Association shall exercise good faith efforts to reasonably enforce the Covenants and Restrictions contained herein.

ARTICLE XV Partial Taking

In the event that any portion of the Industrial Park is taken or purchased in any manner in the nature of a condemnation or other governmental taking, such taking will not render invalid any provision contained in this Declaration.

ARTICLE XVI Revocation of Prior Restrictive Covenants

The undersigned are owners of all of the lands burdened and benefited by those "Restrictive Covenants - Lincoln County Business Park" Filed of record November 17, 1995, at Book 0922, Page 0292 of the Lincoln County Registry (the "Prior Declaration"). They now desire to terminate the Prior Declaration and in its place impose the covenants, conditions, easements and restrictions set forth in this Declaration. **Accordingly:**

The Prior Declaration is hereby terminated and all property previously burdened by the Prior Declaration is released from the effect thereof.

ARTICLE XVII General

Section 1. Mortgagees' Protection. Violation of this Declaration shall not defeat the lien of any Mortgage made in good faith and for value upon any portion of the Property. Any lien created

hereunder shall be subordinate to any such Mortgage unless a lis pendens or notice of the lien shall have been filed prior to the recordation of such Mortgage; provided, however, that any Mortgagee in actual possession or any purchaser at any trustee's, mortgagee's or foreclosure sale shall be bound by and be subject to this Declaration as fully as any other Owner.

Section 2. Chain of Title. Each grantee, lessee or other person in interest or occupancy accepting a conveyance of a fee or lessor interest, the demise of a leasehold interest, or a license, in any Lot, whether or not the instrument of conveyance refers to this Declaration, covenants for himself, his heirs, successors and assigns to observe and perform and be bound by this Declaration and to incorporate this Declaration by reference in any conveyance, demise of a leasehold estate, or the grant of a license, of all or any portion of his interest in any real property subject hereto.

Section 3. Ambiguities. If any discrepancy, conflict or ambiguity is found to exist with respect to any matters set forth in this Declaration, such ambiguity, conflict or discrepancy shall be resolved and determined by Declarant in its sole discretion. Declarant shall have the right to interpret the provisions of this Declaration and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, their construction or interpretation shall be final and binding as to all parties or property benefited or bound by the provisions hereof. Any conflict between any construction or interpretation of Declarant and that of any other person or entity entitled to enforce any of the provisions hereof shall be resolved in favor of the construction or interpretation of Declarant.

Section 4. No Reversionary Interest. This Declaration shall not be construed as creating conditions subsequent, or as creating a possibility of reverter. Nothing herein contained, however, shall be deemed a waiver of the rights to repurchase set forth in Article XIV, Section 1 above. Except as provided above, all reversionary rights are hereby expressly waived by Declarant.

Section 5. Zoning Requirements. This Declaration shall not be interpreted as permitting any action or thing prohibited by applicable zoning laws, or any other Applicable Laws, or by specific restrictions imposed by any deed or other conveyance. In the event of any conflicts, the most restrictive provision among the conflicting terms shall be taken to govern and control.

Section 6. Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court or other body of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Declaration and all remaining restrictions, covenants, reservations, easements and agreements contained herein shall continue in full force and effect.

Section 7. Gender. All pronouns used herein shall be deemed to be singular, plural, masculine, feminine or neuter as application to specific circumstances may require.

IN WITNESS WHEREOF, the undersigned have executed this Declaration through their authorized officers, agents, officers, managers or partners.

[[all signatures follow on succeeding pages]]

TKC XXXV, LLC, , a North Carolina limited liability company

By:

Title:

Kenneth R. Beuley
Authorized Member

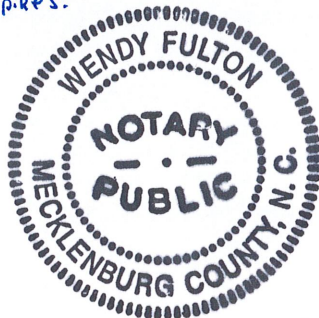
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

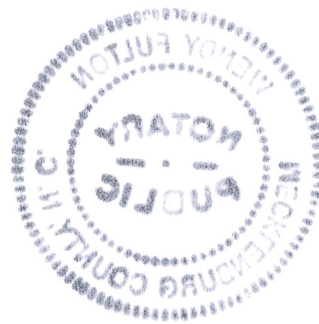
I, Wendy Fulton a Notary Public of the County and State aforesaid, certify that Kenneth R. Beuley personally came before me this day and acknowledged that he is the Authorized Member of TKC XXXV, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by him.

WITNESS my hand and official seal, this 7th day of December, 2000.

My Commission Expires:
02/03/02



Wendy Fulton



THE NORTH CAROLINA COUNTY OF LINCOLN

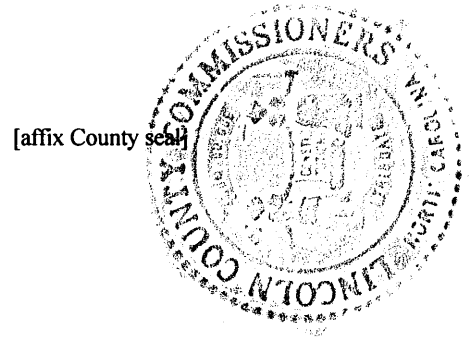
LINCOLN COUNTY

By: James A. Hallman
James A. Hallman, Chairman

Date: 12-4-00

ATTEST:

Amy S. Long
Amy S. Long, Clerk to the Board of the Lincoln
County Board of Commissioners



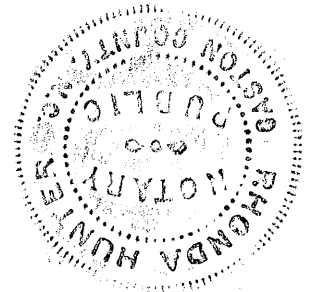
NORTH CAROLINA

LINCOLN COUNTY

This the 4th day of December, 2000, personally came before me, Amy S. Long, Clerk to the Board of County Commissioners of Lincoln County, North Carolina, who being by me duly sworn says that she knows the common seal of the County of Lincoln, North Carolina and is acquainted with James A. Hallman who is the Chairman of the County board of Commissioners of Lincoln County, North Carolina, and that she, the said Amy S. Long, is the Clerk to the Board of County Commissioners of Lincoln County, North Carolina and saw the Chairman of the Commissioners of Lincoln County, North Carolina sign the foregoing instrument and affix said seal to said instrument and that she, the said Amy S. Long, signed her name in attestation of said instrument in the presence of said Chairman of the County Commissioners of Lincoln County, North Carolina.

My Commission Expires: 9-12-2005

Rhonda Hunter
Notary Public



HEAFNER TIRE GROUP, INC., a Delaware corporation

By: _____

[Printed Name _____]

J. Michael Gaither

Executive Vice President, General Counsel
and Secretary

Title: _____

STATE OF ~~DELAWARE~~ North Carolina

COUNTY OF Mecklenburg

I, Deborah B. Gardner, a Notary for said County and State, do hereby certify that J. Michael Gaither personally came before me this day and acknowledged that she/he is Executive Vice President of Heafner Tire Group, Inc. a Delaware corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by her/him as its Executive Vice President, General Counsel and Secretary.

Witness my hand and seal this 15th day of December, 2000.

Deborah B. Gardner
Notary Public

My commission expires: October 21, 2003

M. Neil Finger
M. Neil Finger

Date: Nov. 27, 2000

Mary Ann B. Finger
Mary Ann B. Finger

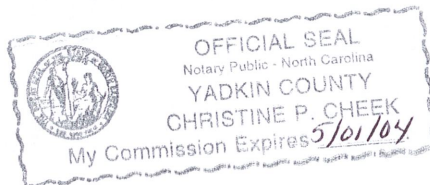
Date: 11-27-00

STATE OF North Carolina
COUNTY OF Yadkin

I, Christine P. Cheek, do hereby certify that M. Neil Finger, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this, the 27th day of November, 2000.

Christine P. Cheek
Notary Public

My Commission Expires:



STATE OF North Carolina
COUNTY OF Yadkin

I, Christine P. Cheek, do hereby certify that Mary Ann B. Finger, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this, the day of, 2000.

Christine P. Cheek
Notary Public

27th November

My Commission Expires:



Carrie H. Finger
Carrie H. Finger

Date: Nov. 27, 2000

by M. Deil Finger, Attorney-in-Fact

STATE OF _____
COUNTY OF _____

I, _____, do hereby certify that _____,
personally appeared before me this day and acknowledged the due execution of the foregoing
instrument. Witness my hand and official seal this, the _____ day of _____,
2000.

Notary Public

My Commission Expires:

**

~~Alternative~~ notary for execution by attorney in fact:

**

STATE OF NORTH CAROLINA
COUNTY OF _____

I, Christine P. Cheek, a Notary Public of the County and State aforesaid, certify that M. Deil Finger,
attorney in fact for Carrie H. Finger appeared before me this day, and being by me duly sworn, says that he
executed the foregoing and annexed instrument for and in behalf of the said Carrie H. Finger, and that
his/her authority to execute and acknowledge said instrument is contained in an instrument duly executed and
acknowledged on the 27th day of Nov, 2000, and recorded in the Lincoln County Registry at Book 911,
Page 198, and that this instrument was executed under and by virtue of the authority given by said instrument
granting him/her power of attorney.

I do further certify that the said M. Deil Finger acknowledged the due execution of the foregoing and annexed
instrument for the purposes therein expressed for and in behalf of the said Carrie H. Finger

Witness my hand and official stamp or seal, this 27th day of Nov, 2000.

My commission expires:



Christine P. Cheek
Notary Public

BOOK **1211** PAGE **382**

 G. A. AVRAM
Date: 11-27-00

 PATRICIA FINGER AVRAM
Date: 11-27-00
 STATE OF North Carolina
 COUNTY OF Yadkin

I, Christine P. Cheek, do hereby certify that G. A. Avram personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this, the 27th day of November, 2000.


 Notary Public

My Commission Expires:

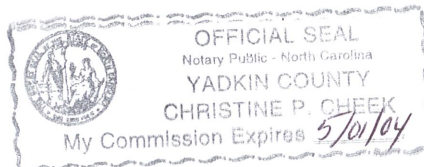

 STATE OF North Carolina
 COUNTY OF Yadkin

I, Christine P. Cheek, do hereby certify that Patricia Finger Avram personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this, the day of, 2000.


 Notary Public

27th November

My Commission Expires:



H. Linn Finger
H. LINN FINGER

Date: 11-28-2000

Mary Lou S. Finger
MARY LOU S. FINGER

Date: 11-28-2000

COMMONWEALTH
~~STATE OF~~ Pennsylvania
COUNTY OF Dauphin

I, BONNIE L. LENKER, do hereby certify that H. LINN FINGER, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this, the 28th day of NOVEMBER 2000.

Bonnie L. Lenker
Notary Public
My Commission Expires:

Notarial Seal
Bonnie L. Lenker, Notary Public
Halifax Boro, Dauphin County
My Commission Expires Nov. 5, 2002
Member, Pennsylvania Association of Notaries

COMMONWEALTH
~~STATE OF~~ PENNSYLVANIA
COUNTY OF DAUPHIN

I, BONNIE L. LENKER do hereby certify that MARY LOU S. FINGER, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this the 28th day of NOVEMBER, 2000.

Bonnie L. Lenker
Notary Public
My Commission Expires:

Notarial Seal
Bonnie L. Lenker, Notary Public
Halifax Boro, Dauphin County
My Commission Expires Nov. 5, 2002
Member, Pennsylvania Association of Notaries

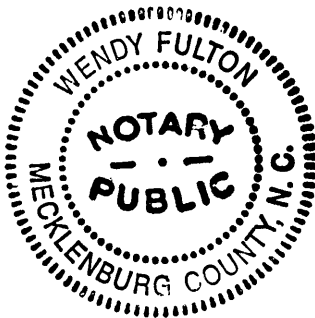
Rowe Lamar Laney Date: 12/11/00
Rowe Lamar Laney
Doris Finger Laney Date: 12.11.00
Doris Laney

STATE OF North Carolina
COUNTY OF Mecklenburg

I, Wendy Fulton, do hereby certify that Rowe Lamar Laney, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this, the 11th day of December, 2000.

Wendy Fulton
Notary Public

My Commission Expires: 02/03/02

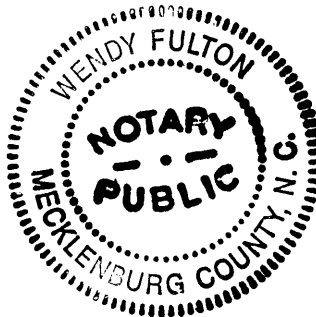


STATE OF North Carolina
COUNTY OF Mecklenburg

I, Wendy Fulton, do hereby certify that Doris Finger Laney, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this the 11th day of December, 2000.

Wendy Fulton
Notary Public

My Commission Expires: 02/03/02





JOINDER AND CONSENT OF SECURED LENDER

THIS JOINDER AND CONSENT is made this 7th day of Dec., 2000 by Wachovia Bank N.A., a national banking association ("Beneficiary"); and New Salem, Inc., ("Trustee") a North Carolina corporation, Trustee under that certain Deed of Trust, Assignments of Rents, Security Agreement and Financing Statement recorded in Book 1193 at page 0340 in the Lincoln County Public Registry (the "Deed of Trust").


The undersigned Beneficiary and the Trustee do hereby consent to, and join in, the conditions, covenants, reservations, easements and restrictions that are herein declared, reserved and imposed upon the Property and additions to the Property. The undersigned Beneficiary and Trustee hereby subordinate the Deed of Trust to this Declaration of Covenants, Conditions and Restrictions (including future amendments and supplementary declarations) so that any foreclosure or other conveyance of the Property subject to this Declaration pursuant to the Deed of Trust, shall not cut off, invalidate or otherwise affect the covenants, conditions, restrictions, easements and other terms of this Declaration.

IN WITNESS WHEREOF, the Beneficiary and the Trustee have caused this Joinder and Consent to be duly executed this the 7th day of Dec., 2000.

BENEFICIARY:

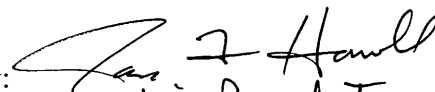
Wachovia Bank, N.A., a national banking association

:

By: 
Title: Senior Vice President

TRUSTEE:

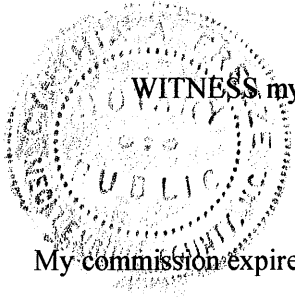
New Salem, Inc., Trustee

By: 
Title: Vice President

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

This 7th day of December, 2000, personally came before me, James F. Harrell, who being by me duly sworn, says that she/he is Sr. Vice President of Wachovia Bank, N.A. a national banking association, and that by authority duly given and as the act of the bank, the foregoing instrument was signed in its name by her/him.

WITNESS my hand and notarial seal, this the 7th day of December, 2000.

Notary Public

Cynthia A. Freeze

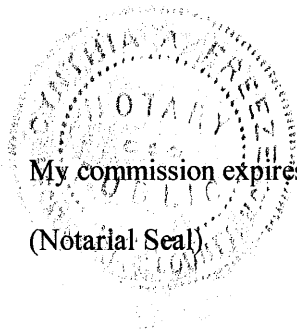
My commission expires: 10/11/02

(Notarial Seal)

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

This 7th day of December, 2000, personally came before me, James F. Harrell, who being by me duly sworn, says that she/he is Vice President of New Salem, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by her/him.

WITNESS my hand and notarial seal, this the 7th day of December, 2000.

Notary Public

Cynthia A. Freeze

My commission expires: 10/11/02

(Notarial Seal)

joinder #2

JOINDER AND CONSENT OF SECURED LENDER

THIS JOINDER AND CONSENT is made this 20th day of December, 2000 by Peoples Bank, a North Carolina banking corporation ("Beneficiary"); and Ashley L. Hogewood, Jr., Esq., ("Trustee") a resident of Mecklenburg County, North Carolina, Trustee under that certain Deed of Trust and Security Agreement granted by the County of Lincoln, North Carolina, and recorded in Book 1118, at page 0868 in the Lincoln County Public Registry (the "Deed of Trust").

The undersigned Beneficiary and the Trustee do hereby consent to, and join in, the conditions, covenants, reservations, easements and restrictions that are herein declared, reserved and imposed upon the Property and additions to the Property. The undersigned Beneficiary and Trustee hereby subordinate the Deed of Trust to this Declaration of Covenants, Conditions and Restrictions (including future amendments and supplementary declarations) so that any foreclosure or other conveyance of the Property subject to this Declaration pursuant to the Deed of Trust, shall not cut off, invalidate or otherwise affect the covenants, conditions, restrictions, easements and other terms of this Declaration.

IN WITNESS WHEREOF, the Beneficiary and the Trustee have caused this Joinder and Consent to be duly executed this the 20th day of December, 2000.

BENEFICIARY:

Peoples Bank, a North Carolina banking corporation

By: Title: **TRUSTEE:**
Ashley L. Hogewood, Jr., - Trustee

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

This 8th day of December, 2000, personally came before me, Danny Richard, who being by me duly sworn, says that she/he is Vice President of Peoples Bank, a North Carolina banking corporation, and that by authority duly given and as the act of the bank, the foregoing instrument was signed in its name by her/him.

WITNESS my hand and notarial seal, this the 8th day of Dec., 2000.

Chris W. Smith
Notary Public

My commission expires: 02-19-01

(Notarial Seal)

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG CATAWBA

I, Phyllis S. Perkins, do hereby certify that Ashley L. Hogewood, Jr., Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this, the 20th day of December, 2000.

Phyllis S. Perkins
Notary Public of Catawba County, NC

My commission expires: 03-30-2005

(Notarial Seal)

NORTH CAROLINA, LINCOLN COUNTY

The foregoing certificates of Wendy Fulton, Deborah B. Gardner & Cynthia A. Freeze, Notaries Public of Mecklenburg County, NC; Rhonda Hunter, Notary Public of Gaston County, NC; Christine P. Cheek, Notary Public of Yadkin County, NC; Bonnie L. Lenker, Notary Public of the Commonwealth of Pennsylvania; Chris W. Smith, Notary Public of Lincoln County, NC; Phyllis S. Perkins, Notary Public of Catawba County, NC, are certified to be correct. Presented for registration and recorded December 22, 2000, at 2:05 PM in Book 1211, Page 356.

ELAINE N. HARMON

Register of Deeds for Lincoln County, NC

BY: Judith W. Martin
and _____ Register of Deeds

EXHIBIT "A"

PROPERTY SUBJECT TO

THE

LINCOLN COUNTY INDUSTRIAL PARK

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Property of Declarant Lincoln County:

All of that approximately 107.51 acres conveyed to Declarant Lincoln County by Deeds recorded in Book 1118 at Pages 0853, 0857, 0862, and 0865 on June 14, 1999. For convenience of reference, the legal descriptions from those deeds are duplicated below:

Property conveyed by quit claim deed from Gerald Robert Abernathy, et al, dated June 8, 1999 and recorded in Book 1118, Page 0865 and by separate deed from Katie Burke Abernathy, dated June 8, 1999 and recorded in Book 1118, Page 0862:

BEING all that tract or parcel of land located in Lincolnton Township, Lincoln County, North Carolina, and described more particularly by metes and bounds as follows:

BEGINNING at an existing iron pin located in the southeastern corner of property now or formerly owned by A.C. Bollinger and running thence South 79 deg. 30 min. 32 sec. East 60.00 feet to a point; thence South 01 deg. 29 min. 07 sec. West 66.52 feet to an existing iron pin; thence North 84 deg. 24 min. 45 sec. East 98.86 feet to an existing iron pin; thence North 01 deg. 49 min. 09 sec. East 281.14 feet crossing over Hatchett Road (State Road No. 1277) to a point in the northern boundary of the right of way of Hatchett Road; thence North 67 deg. 16 min. 25 sec. West 159.09 feet to a point; thence South 03 deg. 43 min. 10 sec. West 275.24 feet to the point of BEGINNING, containing a total of 1.032 Acres, as shown on that unrecorded plat of survey by Tony E. Carpenter, Professional Land Surveyor, dated January 28, 1999 to which reference is made herein.

Title History: This being a portion of that property conveyed to Claude Fay Abernathy by Deed recorded in Book 429 at Page 184, and which was devised by the Will of Claude F. Abernathy recorded in Estate File Number 84E at Page 120 in the Lincoln County Clerk of Courts Office.

Property conveyed by deed from Gerald Robert Abernathy, et ux, dated June 8, 1999, and recorded in Book 1118, Page 0857:

BEING all that tract or parcel of land located in Lincolnton Township, Lincoln County, North Carolina, and being described more particularly by metes and bounds as follows:

BEGINNING at an existing iron pin in the southern boundary of the right of way of Hatchett Road (State Road No. 1277) in the line of A.C. Bollinger (now or formerly), and running thence South 06 deg. 27 min. 47 sec. West 228.07 feet to an existing iron pin; running thence North 83 deg. 57 min. 21 sec. West 240.01 feet to a point; thence North 06 deg. 27 min. 47 sec. East 239.67 feet to a point in the southern boundary of Hatchett Road; thence North 06 deg. 27 min. 47 sec. East 30.02 feet to a point in the centerline of said State Road; thence South 83 deg. 57 min. 21 sec. East 240.01 feet to an existing iron pin; thence South 06 deg. 27 min. 47 sec. West 41.62 feet to the point of BEGINNING, containing a total of 1.485 Acres, more or less as shown on that unrecorded plat of survey by Tony E. Carpenter, Professional Land Surveyor, dated January 28, 1999, to which reference is made.

For Title Reference see Deed recorded in Book 491 at Page 203 in the Lincoln County Public Registry.

Property conveyed from Katie Burke Abernathy, et. al by deed dated June 8, 1999 and recorded in Book 1118, Page 0853:

BEING all that tract or parcel of land located in Lincolnton Township, Lincoln County, North Carolina, and being more particularly described by metes and bounds as follows:

BEGINNING at a railroad spike in the centerline of Hatchett Road, said beginning point being located South 22 deg. 38 min. 10 sec. West 367.62 feet from an existing iron pin, and proceeding thence South 82 deg. 02 min. 56 sec. East 571.43 feet to a point; thence South 06 deg. 27 min. 47 sec. West 269.69 feet to a point in the common corner of property formerly owned by Gerald Abernethy; thence South 83 deg. 57 min. 21 sec. East 240.01 feet to an existing iron pin; thence South 79 deg. 30 min. 32 sec. East 212.33 feet to an existing iron pin; thence South 79 deg. 30 min. 32 sec. East 60.00 feet to a pin; thence South 01 deg. 29 min. 07 sec. West 66.52 feet to an existing iron pin; thence North 84 deg. 24 min. 45 sec. East 98.86 feet to an existing iron pin; thence South 02 deg. 42 min. 13 sec. West 315.40 feet to an existing iron pin; thence South 26 deg. 52 min. 09 sec. West 268.13 feet to a maple; thence South 46 deg. 37 min. 09 sec. West 142.42 feet to an existing iron pin; thence South 01 deg. 58 min. 50 sec. West 246.41 feet to an existing iron pin; thence South 37 deg. 15 min. 44 sec. West 882.75 feet to an existing iron pin in a stone pile; thence South 02 deg. 44 min. 28 sec. West 831.06 feet to an existing iron pin; thence proceeding along the western boundary of property now or formerly owned by J.H. Heavner Company South 74 deg. 56 min. 56 sec. East 532.13 feet to an existing iron pin; thence South 04 deg. 36 min. 26 sec. West 1,174.76 feet to a point in the centerline of Larkard Creek; thence proceeding along the centerline of said creek the following bearings and distances: North 87 deg. 45 min. 24 sec. West 137.78 feet; South 84 deg. 28 min. 35 sec. West 144.17 feet; North 44 deg. 58 min. 08 sec. West 78.64 feet; North 73 deg. 55 min. 10 sec. West 15.94 feet to a point in the northeastern boundary of U.S. Highway 321; thence proceeding along the northeastern boundary of said U.S. Highway 321 the following bearings and distances: North 03 deg. 40 min. 37 sec. West 53.65 feet; North 33 deg. 54 min. 07 sec. West 588.93 feet; North 26 deg. 05 min. 17 sec. West 263.56 feet; North 39 deg. 37 min. 57 sec. West 473.15 feet; North 47 deg. 42 min. 11 sec. West 706.96 feet; North 46 deg. 22 min. 37 sec. West 433.62 feet to a pin in the centerline of a branch; thence North 48 deg. 53 min. 17 sec. East 552.44 feet to a pin; thence North 22 deg. 38 min. 10 sec. East 1,553.75 feet to a pin; thence North 22 deg. 38 min. 10 sec. East 458.43 feet to a pin in the southern boundary line of Hatchett Road; thence North 22 deg. 38 min. 10 sec. East 31.01 feet to the point of BEGINNING, containing a total of 104.993 Acres, more or less as shown on that unrecorded plat of survey by Tony E. Carpenter, Professional Land Surveyor, dated January 28, 1999 to which reference is made herein.

Title History: This being a portion of the property conveyed to A.C. McHargue and wife, Ina P. McHargue by Deed dated May 16, 1957 and recorded in Book 340 at Page 01 in the Lincoln County Public Registry. Ina P. McHargue subsequently died, and A.C. McHargue and his new wife Ruth McHargue conveyed the identical property to Claude F. Abernethy by Deed dated February 14, 1963 and recorded in Book 395 at Page 660 in the Lincoln County Public Registry.

For Further Title Reference, see the Last Will and Testament of Claude Fay Abernethy recorded in Estate File Number 84E at Page 120 in the Lincoln County Clerk of Courts Office, and Deed from Kenneth Abernethy et ux to Gerald Abernethy et ux, recorded in Book 739 at Page 414 in the Lincoln County Public Registry.

Property of Declarant Heafner Tire Group, Inc.:

All of the 48.507 acres more or less conveyed by Deed from M. Neil Finger, et ux Mary Ann B. Finger to the J. H. Heafner Co., Inc. by General Warranty Deed recorded in Book 0925, Page 0382. For ease of reference, the legal description from said Deed is duplicated below:

BEING 48.507 ACRES located in Lincolnton Township, Lincoln County, North Carolina, according to a boundary survey prepared for The J. H. Heafner Company, Inc. by Carpenter Land Surveying, P.A., dated August 21, 1995, with reference thereon to Deed Book 749 at Page 656, Lincoln County Registry, and being a portion of the Lincoln County Industrial Park as shown on survey of the Lincoln County Industrial Park recorded in Plat Book G, Page 415, Lincoln County Registry, and being bounded on the North by other lands of the Lincoln County Industrial Park, on the East by the centerline of Finger Mill Road (N.C. State Road #1276), on the South by the centerline of Larkard Creek, on the West by property of Claude F. Abernathy, and being described by metes and bounds as follows:

BEGINNING at a point in the centerline of the bridge where Finger Mill Road crosses Larkard Creek, said Beginning Point being located N 11° 49' 42" W 3247.42 feet from N.C.G.S. Monument Nick having coordinates of N = 655416.2941 and E = 1340250.889 and runs from said Beginning Point with the centerline of Larkard Creek the following courses and distances: S 57° 33' 30" W 36.27 feet; N 82° 31' 43" W 39.58 feet; S 86° 58' 28" W 55.84 feet; S 53° 45' 55" W 54.64 feet; S 60° 56' 43" W 46.03 feet; S 21° 34' 42" W 59.96 feet; S 66° 21' 08" W 28.77 feet; S 83° 45' 51" W 57.95 feet; N 68° 32' 18" W 52.86 feet; S 61° 33' 34" W 49.14 feet; S 28° 14' 19" W 31.95 feet; S 61° 36' 35" W 53.01 feet; S 69° 02' 45" W 58.43 feet; S 76° 17' 23" W 39.62 feet; N 67° 33' 58" W 35.73 feet; N 46° 27' 39" W 24.81 feet; N 86° 32' 20" W 10.85 feet; S 39° 01' 22" W 33.54 feet; S 29° 14' 44" W 46.48 feet; N 88° 21' 00" W 45.10 feet; N 69° 20' 54" W 18.83 feet; N 77° 35' 02" W 45.46 feet; S 38° 37' 01" W 72.07 feet; S 76° 18' 13" W 29.81 feet; S 19° 46' 21" W 38.37 feet; S 19° 19' 50" W 37.69 feet; S 56° 35' 03" W 23.62 feet; S 82° 55' 38" W 55.00 feet; S 64° 39' 55" W 59.20 feet; S 42° 34' 01" W 39.97 feet; S 32° 11' 59" W 59.53 feet; S 55° 23' 35" W 45.63 feet; S 39° 22' 00" W 68.48 feet; S 47° 23' 16" W 56.97 feet; S 65° 52' 10" W 35.96 feet; N 67° 17' 08" W 27.40 feet; N 37° 32' 07" W 23.91 feet; N 28° 38' 12" W 18.49 feet; N 76° 50' 13" W 20.36 feet; S 77° 14' 30" W 34.94 feet; S 76° 35' 59" W 42.58 feet; and N 87° 57' 13" W 21.79 feet to a corner in the centerline of Larkard Creek and an eastern line of Claude F. Abernathy (being Tract 6 of Deed Book 395, Page 600, Lincoln County Registry); thence with the eastern line of Claude F. Abernathy, N 04° 36' 26" E 1174.76 feet to an existing iron pin, northeastern corner of Claude F. Abernathy (Tract 4 of Deed Book 395, Page 600, Lincoln County Registry); thence with a northern line of Abernathy, N 74° 56' 56" W 532.13 feet to an existing iron pin, another corner of Abernathy; thence with another eastern line of Abernathy, N 02° 44' 28" E 574.23 feet to a set iron pin, a new corner; thence a new line, S 87° 15' 32" E 1597.56 feet (crossing a set iron pin at 1567.56 feet in the western right of way line of Finger Mill Road) to a corner in the centerline of Finger Mill Road; thence with the centerline of Finger Mill Road, the following course and distances: S 01° 54' 10" W 552.08 feet; S 00° 33' 35" E 87.80 feet; S 04° 48' 39" E 93.97 feet; S 11° 29' 16" E 106.10 feet; S 18° 06' 23" E 78.01 feet; S 23° 59' 47" E 123.84 feet; S 28° 27' 47" E 196.37 feet to the POINT OF BEGINNING.

Property of Declarant of TKC XXXV, LLC:

All of that property conveyed to TKC XXXV, LLC from M. Neil Finger et ux Mary Ann B. Finger by General Warranty Deed dated August 28, 2000, and recorded in Book 1193, Page 0310. For ease of reference, the Exhibit A legal description from that Deed is duplicated below:

That certain tract or parcel of land situated, lying and being in Lincolnton Township, Lincoln County, North Carolina and being more particularly described as follows:

BEGINNING at an existing iron rod on the westerly margin of Finger Mill Road (60' right-of-way), said iron being the northeast corner of J.H. Heafner Company, Inc. as described in Deed Book 925, Page 382 of the Lincoln County Public Registry, and runs thence with the northerly line of J.H. Heafner North 87-17-29 West 1567.42 feet to a new iron rod on line of Lincoln County property as described in Deed Book 1118, Page 853 of said Registry, thence with the line of Lincoln County property the following two (2) courses and distances: (1) North 02-42-31 East 257.18 feet to an existing iron rod; (2) North 37-13-59 East 810.81 feet to a new iron, thence with a new line South 86-24-22 East 1050.16 feet to a new iron rod on the westerly margin of Finger Mill Road, thence with the westerly margin of Finger Mill Road the following two (2) courses and distances: (1) with the arc of a circular curve to the right having a radius of 1200.00 feet an arc length of 344.02 feet, (chord: South 06-03-48 East 342.85 feet) to a new iron rod; (2) South 02-08-59 West 570.16 feet to the point and place of BEGINNING; containing 1,277,723 square feet or 29.3325 acres of land as shown on a survey prepared by R. B. Pharr & Associates, P.A. dated July 6, 2000, last revised September 6, 2000, bearing file no. W-2556.

Property of Declarant Finger-Laney Family:

All of that 339.881 acres (more or less) shown as the Lincoln County Industrial Park on Plat recorded in Plat Book G, Page 415, less and except the parcels conveyed to TKC XXXV, LLC, by Deed recorded in Book 1193, Page 0310 and the J. H. Heafner Company, Inc. (predecessor of Heafner Tire Group, Inc.) by Deed recorded in Book 0925, Page 0382.

EXHIBIT "B"

*

**INITIAL ARCHITECTURAL AND SITE GUIDELINES
FOR****The Lincoln County Industrial Park**

Drawn by and mail to:
 Mitchell, Rallings & Tissue, PLLC
 1800 Carillon
 227 West Trade Street
 Charlotte, NC 28202
 704-376-6574

Pursuant to Article VIII, Section 3 of the Declaration of Covenants, Conditions and Restrictions for The Lincoln County Industrial Park, the following rules and guidelines are adopted to (1) create specific standards and procedures for review of Owners' plans by the Committee and, (2) serve as a statement of policy for such review of proposed Improvements and other work upon Lots within the Industrial Park.

All terms which are specifically defined in Article I of the Declaration of Covenants, Conditions and Restrictions for The Lincoln County Industrial Park shall be given the same definition herein.

PROCEDURES FOR REVIEW OF PLANS

Section A. Preliminary Plans. It is strongly recommended that, prior to the creation of final design plans, Owners first submit general design plans for preliminary review by the Committee. Materials submitted for preliminary review should include the following:

1. General site plan indicating building footprints, general grading, landscaping features, parking and service areas;
2. General description of building materials to be used, especially those materials used for the exterior of Structures; and
3. Exterior elevations.

Preliminary plans will be reviewed by the Committee and a written response returned to the Owner within ten (10) business days of submission. No additional fee shall be charged for review of preliminary plans. Two sets of the Preliminary Plans shall be submitted to the Committee; the Committee shall return one set to the Owner with redlines and comments.

Section B. Review of Final Plans. Even though preliminary plans have been submitted to the Committee for comments, no Owner shall begin construction or grading upon any Lot until the Committee has approved final site and construction plans for that Lot. Final plans shall be submitted to the Committee in triplicate and the Committee shall return one set to the Owner with redlines and comments. The Committee shall respond in writing to the submission of proposed final plans within thirty (30) business days. Final plans submitted to the Committee shall include:

1. Detailed site development plan indicating the location and nature of all structures, improvements, lighting fixtures, landscaping, parking areas, irrigation systems and signage. The site plan should indicate all applicable Setback Distances and show all earthmoving, grading and cuts necessary for the planned development;

2. Floor plans for all structures showing entrances and exits, docks, truck loading areas, dumpster areas and outdoor storage areas;
3. Exterior elevations;
4. Color boards for the exterior of all structures; and
5. Detailed drawings and descriptions of all signage, outdoor lighting fixtures, screening (for ground level areas as well as any equipment located upon the structures), retaining walls and landscaping. The detailed description should indicate, at a minimum, the nature of the items, specific materials to be used, color, shape, size, and botanical variety of living landscape materials.

Fees for the review of final plans as described in Article IX, Section 3, of the Declaration, shall be due within thirty (30) days after they are assessed by the Committee.

FUNDAMENTAL DESIGN PHILOSOPHY

The Committee shall be charged with the duty to ensure that all structures erected within the Industrial Park shall be of consistently high quality and, to the extent possible within an industrial setting, harmonious design and style.

Exterior use of materials such as unfinished hollowcore concrete block, galvanized steel corrugated panels, or other materials traditionally associated with low quality or temporary construction may be discouraged and must have express approval from the Committee.

SITE DEVELOPMENT STANDARDS

Section A. Landscaping.

1. Landscaping must comply with the pertinent portions of the Lincoln County Zoning Ordinance, specifically including those portions requiring the planting of trees.
2. Landscaping plans should address and propose solutions to the following landscape problems:
 - a. Erosion control,
 - b. Location of utility lines,
 - c. Surface water control and storm drainage, and
 - d. General clearing of the building site that retains as many mature trees as possible
3. Unpaved areas shall be landscaped utilizing ground cover and/or shrub and tree materials. Preservation, when possible, of existing mature trees is encouraged.
4. Trees planted along street frontage should be limited in variety. Selections should be repeated to give continuity. Regular spacing is not required and irregular groupings may add interest. Care should be exercised to allow plants to grow and maintain their ultimate size without restriction.
5. Earth berms, if used, must be rounded and stable.
6. Outdoor refuse collection areas, dumpsters, storage areas, and loading docks and areas shall be visibly screened from access streets and adjacent property. Plant screening, if used, shall form a complete opaque screen.
7. Landscaping, as approved by the Committee, must be substantially installed within Ninety (90) days from Substantial Completion of the Principal Improvements upon a Lot. The Association may, in its reasonable discretion, extend this installation period for portions of the landscaping to better allow for planting in appropriate seasons.

Section B. Parking.

All parking areas shall be paved with asphalt or concrete or other like substance approved in writing by the Committee.

Section C. Signage. During the construction period one temporary Sign will be permitted on a Lot. The temporary Sign shall be replaced by permanent identification Signs approved by the Committee no later than such time as any Structure on the Lot is certified as fit for occupancy.

Section D. Site Lighting. Any scheme of lighting primarily designed to highlight structural facades must be specifically approved by the Committee.

Parking lot lighting should be of a uniform nature. Sodium Vapor light fixtures are recommended for parking lot lighting. The light standards shall be of bronze colored anodized aluminum with a cutoff shoebox fixture or such other standards approved by the Committee. The recommended minimum average illumination level for parking areas is five footcandles.

Section E. Maintenance. All Owners shall be responsible for keeping their Lots in a neat, well kept and attractive condition. This requirement also applies, to the extent feasible, to periods of construction or renovation.

Landscaping shall be maintained in a neat and orderly fashion. Planting areas are to be kept free of weeds and debris and Lawn and ground covers will be kept trimmed and/or mowed regularly. All plantings shall be kept in a healthy and growing condition. Irrigation of turf or planted areas may be required at the discretion of the Committee, especially along street rights of way or in areas visible from streets or other Lots.

The Association will monitor the maintenance of each Lot and in the event that said maintenance falls below the standard required hereby, the Association shall give written notice to the Owner. If the Owner has not taken reasonable measures to correct the below standard maintenance of the Lot, the Association may, at its option, enter upon the Lot for the purpose of removing unsightly debris or rubbish and otherwise upgrading the maintenance to a standard compatible with the requirements of the Declaration and these guidelines. The costs of such entry and upgrading, plus fifteen percent (15%) of such charges for general overhead and intangible expenses shall be due and payable from the Owner. If the Owner fails to pay such expenses within fifteen (15) days after being billed for said expenses, the costs shall be a lien upon the Lot. Said lien shall be enforceable as is provided for assessments and other liens by the Declaration.

Section F. Minimum Setbacks.

For Structures:

Street Setbacks shall be forty feet (40');
Side Setbacks shall be twenty feet (20'),
Rear Setbacks shall be twenty feet (20'), and

For parking, paving and associated curbing:

Street Setbacks shall be twenty feet (20');
Side Setbacks shall be ten feet (10')
Rear Setbacks shall be ten feet (10'), and

Special Provisions for Property adjoining U.S. Highway 321:

No Structures, parking areas or associated paving or curbing shall be located nearer to U.S. Highway 321 than one hundred feet (100') ;
Side Setbacks shall be ten feet (10')
Rear Setbacks shall be ten feet (10'), and

On lots of less than five (5) acres, the Committee, may in its discretion, permit a lesser Side or Rear Setbacks for parking, paving and associated curbing.

Section G. Outdoor Storage. Outdoor Storage is permitted as an Accessory Use. Outdoor Storage which is not an Accessory Use is not permitted. Outside storage must be completely screened from view both from outside the Industrial Park and from other lots within the Industrial Park. Screening must be effective at the time of installation and the Committee shall have discretion to disapprove such screening as it may reasonably consider ineffective. All outdoor storage areas are deemed to be Structures for purposes of conforming to the setback requirements described herein.

