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MACON CO. NC FEE \$47.00

PRESENTED & RECORDED

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TODD RABY

REGISTER OF DEEDS

BY JANE A WALKER

DEPUTY

**BK: CRP T-32**

**PG: 934-945**

DECLARATION OF PROTECTIVE COVENANTS,

EASEMENTS AND CONDITIONS FOR

DIAMOND FALLS ESTATES, A SUBDIVISION

THIS DECLARATION made this 18th day of December, 2008, by DIAMOND FALLS ESTATES, LLC, a North Carolina Limited Liability Company (hereinafter referred to as the "Declarant");

THAT WHEREAS, the Declarant is the owner and developer of the real property shown on the plat entitled "Phase one of DIAMOND FALLS ESTATES" prepared from a survey by Smoky Mountain Land Surveying, P.A., drawing # 3837 & 3841, dated August 25<sup>TH</sup>, 2008, recorded on Plat Cards 5997 & 5998, Macon County Land Registry, being a portion of the lands described in the following two deeds: deed from Pembroke Heights, LLC to Diamond Falls, LLC recorded at Book C-32, Page 1327 & deed dated December 18, 2008 from Shimoba Enterprises, LLC to Diamond Falls Estates, LLC recorded at Book T-32, page 932, Macon County Registry.

WHEREAS, the Declarant is in the process of developing and subdividing the property (the Subdivision) shown on the plats, above referred to, and

WHEREAS, the Declarant intends to sell and convey the Lots within the Subdivision as shown on the plat above referred to, and, before doing so, desires to impose upon them mutual and beneficial restrictions, covenants, equitable servitudes, and charges, under a general plan or scheme of improvements for the benefit of all Lots in the Subdivision and for the benefit of the Owners and future Owners thereof, and

WHEREAS, the Declarant reserves the right to, but is not obligated, to, add additional portions of the land described in the following two deeds: deed from Pembroke Heights, LLC to Diamond Falls, LLC recorded at Book C-32, Page 1327 & deed from Shimoba Enterprises, LLC to Diamond Falls Estates, LLC dated December 18, 2008 recorded at Book T-32, page 932, Macon County Registry and other

lands, as additional portions of said Subdivision.

NOW, THEREFORE, the Declarant declares that all of the Lots shown on the plats, referenced above, and all other lots which may hereafter be added to the Subdivision, with the exception of Phase IV which is not subject to this Declaration, and made subject to these Restrictions by amendments properly recorded in the Macon County Land Registry, held and shall be held, conveyed, and hypothecated, or encumbered, leased, rented, used, occupied, and improved subject to the provisions of this Declaration, all of which are declared by the Declarant, and agreed to by Declarant's successors in title, to be in furtherance of a plan and general scheme of development established for the purpose of enhancing and protecting the value, desirability, and attractiveness thereof.

The provisions of this Declaration are intended to create mutual and equitable servitudes upon each of the Lots in favor of each and all other Lots; to create reciprocal rights between the respective Owners of all of the Lots; to create privity of contract and privity of estate between the Owners of the Lots, their heirs, successors and assigns, and to operate as covenants running with the land for the benefit of each and all other Lots and parcels in the Subdivision and their respective Owners, present and future.

The following terms used in this Declaration are defined as follows:

A) "Association" means Diamond Falls Estates Property Owners' Association, A North Carolina Non-profit Corporation as more fully defined herein below.

B.) "Declarant" means Diamond Falls Estates, LLC.

C.) "Owner" or "Lot Owner" means:

1. Any person, firm, corporation, trust, other legal entity, or combination thereof, who or which holds fee simple title to any Lot.

2. Any person, firm, corporation, other legal entity, or combination thereof, who or which has contracted to purchase fee simple title to any Lot pursuant to a written agreement, and which written agreement entitles such person, firm, corporation, legal entity, or combination thereof, to the exclusive right to possess and control such Lot, in which case the record fee simple owner of such Lot shall for the purposes of this Declaration cease to be the "Owner" of such Lot for so long as said agreement is legally effective.

D) "Plat" means the above mentioned recorded plats, and any subsequent plat of Diamond Falls Estates, with the exception of the Plat for Phase IV recorded at Plat Card 6005, Diamond Falls Estates, a Subdivision, which land and subdivision is not subject to these Protective covenants, or any portion thereof, hereinafter

recorded in the Macon County Land Registry, and any and all subsequently recorded survey plats of the Subdivision, or any portion thereof, or any lands added to the Subdivision.

E) "Single Family Dwelling" means a residential dwelling for one or more than one person, and if more than one person, persons related to each other by blood, marriage, or legal adoption, or in the alternative, a group of not more than six persons not so related who shall maintain a common household in such dwelling. Under no circumstances may any residential dwelling be used for any type or form of group home.

F) "Subdivision" means the Lots that are subjected to this Declaration, or to any amendment to this Declaration, and any common areas listed on any and all official plats and such plats as amended.

G) "Lot" means anyone or more of the Lots or other tracts or parcels created within the Subdivision or added to the Subdivision by recorded survey plat or by other means.

#### R E S T R I C T I O N S

1. Each lot shall be used for residential purposes only, and no manufacturing establishments, factory, public garage, sanitarium or hospital, motel, trailer park, apartment building, condominium, multi-family housing building or any building of similar nature may be maintained on the same, and no unsanitary, offensive or unsightly conditions shall be allowed thereon. No house trailer, mobile home, travel trailer, manufactured home, or any type of temporary housing shall be placed or located upon any Lot as a residence. No modular dwelling or other fully or partially pre-constructed dwelling may be placed on any Lot without the express prior written permission of the Architectural Review Committee. Any campers, travel trailers, recreational vehicles, boats, watercraft, trucks used for commercial purposes, or similar vehicles, which are kept or maintained on any Lot shall be stored in an enclosed or screened area out of the view of other Lots in the Subdivision and roads in the Subdivision.

2. Each principal residence constructed on any Lot shall consist of not less than 1500 square feet of enclosed heated floor space if the residence contains a single floor, and not less than 2000 square feet of enclosed heated floor space if the residence contains two floors. No building may exceed two stories in height. The landscaping and grassing of each Lot shall be completed within one year from the time any construction begins on any Lot. All exterior construction shall be completed within one year after it has commenced.

3. No Lot may be re-subdivided, except by Declarant. Boundaries between Lots may be adjusted with the written consent of the Architectural Review Committee provided no additional Lots are created. Only one Single Family Dwelling may be constructed per Lot. No outbuildings of any kind may be constructed, except that for each Single Family Dwelling constructed, a two or three car detached garage

may be constructed, and one small storage building may be constructed, provided prior written permission is obtained from the Architectural Review Committee.

4. All water systems and septic disposal systems shall be constructed and installed in accordance with the rules and regulations of the governmental authorities with jurisdiction, as from time to time amended, and no outside toilets shall be built upon any Lot.

5. No residence, building, or any other structure shall be built or maintained within 30 feet from any property line or the edge of any roadway easement or within 75 feet from any creek or branch unless a variance is first obtained in writing from the Architectural Review Committee. This restriction shall not apply with respect to the interior boundaries between Lots being improved as a unit.

6. No Lot or any part thereof shall be used for a junk yard or for any unsightly or obnoxious purposes. No items of personal property of any kind, except for operable, licensed motor vehicles, may be kept or stored on any Lot outside the structures on the Lot. Activities which may tend to cause disorderly, unsightly or unkempt conditions shall not be pursued or undertaken on any Lot, nor in any driveway, garage, carport, or other place where such condition is visible from any road or from any other Lot, including without limitation, the assembly and disassembly of motor vehicles and other mechanical devices. All trash, garbage, and waste shall be kept in an enclosed or screened area, so that the same will not be visible from other Lots in the Subdivision or roads in the Subdivision. No burning of garbage shall be done or permitted on any lot in the Subdivision.

7. No animals may be kept and maintained on any Lot, except that this restriction shall not prohibit the keeping of no more than three usual household pets, such as dogs and cats, provided said usual household pets are at all times confined to the Owner's Lot or are allowed outside the Owner's lot only in the presence of the Owner. No animal may be maintained on any Lot if it makes such an amount of noise as to frequently or habitually disturb Owners of other Lots.

8. It shall be the responsibility of each Lot Owner to maintain a 15" or larger culvert on any portion of his Lot where a driveway crosses or any other thing obstructs a drainage ditch. All soil disturbing activities, including without limitation grading house sites, constructing driveways, and landscaping, regardless of their extent, must conform to prevailing laws and regulations regarding erosion control, both during construction and afterward, and must not impair the erosion control measures previously installed by the Declarant.

9. No commercial or business activities may occur on any Lot. This provision shall prohibit all types of lodging businesses, but shall not prohibit the leasing or renting of an entire dwelling on any Lot for any length of time, and shall not prohibit in-home businesses or offices that do not invite the general public upon the premises.

10. It shall be the responsibility of each Lot Owner to provide adequate parking space for motor vehicles on his or her Lot. Parking on the Subdivision roads or within the rights of way thereof is prohibited. All parking areas and driveways on all Lots must be surfaced completely, immediately upon installation, and thereafter maintained, with gravel, concrete, asphalt or other appropriate paving material. No unlicensed or inoperable vehicles may be maintained or kept on any Lot in the Subdivision.

11. In order to minimize noise pollution, the use of motorized lawnmowers, lawn tractors, grass trimmers, garden tillers, chain saws, blowers and other equipment (including but not limited to equipment with electric engines and gasoline powered engines) shall be prohibited before 8:00 a.m. and after 9:00 p.m. Activities which include the playing of loud music and/or having loud late night parties are prohibited. The discharge of firearms and use of fireworks in the Subdivision is prohibited. In order to minimize light pollution and to preserve the night views in the Subdivision, outside lights may not be installed more than 15 feet above ground level and must be shielded so that the bulb or other light source is not directly visible from any road or other Lot, and must be turned off when not in use for an outdoor activity. The use of motion detectors to activate lights for security purposes is permitted.

12. No Owner or Owners of any Lot shall operate or permit to be operated by those under their control, or by guests or others who ought to be under their control, motorcycles, three wheelers, four wheelers, ATV's, off-road vehicles or similar vehicles within the boundaries of the Subdivision, except for legitimate purposes of transportation to and from work into and out of the Subdivision. It is the intention of this restriction to prohibit sport riding or joy riding upon motorcycles and similar vehicles within the boundaries of the Subdivision. No vehicle may be operated within the Subdivision unless currently legally licensed and insured. Any operator of any motorized vehicle within the Subdivision must have a valid driver's license.

13. A) Declarant reserves unto itself, its successors and assigns, and reserves and grants to the Association, to Duke Energy Carolinas, LLC, Verizon South and to all other public utility companies, a perpetual, alienable and releasable easement and right of way to install and use electrical and telephone wires, cables, and conduits, sewer lines, water mains, and other suitable conduits and equipment for the transmission and discharge of electricity, telephone, gas, sewer, cable television and other public conveniences or utilities, within, all roadway easements in the Subdivision and within the ten(10) foot wide strip immediately inside the boundary of each Lot provided, in the event of the improvement of two (2) or more Lots as a unit, such easement shall not exist with respect to interior Lot lines unless use of such easement for such purposes has already begun. By reservation of said easements, the Declarant does not obligate itself or the Association to provide any utility service to any Lot. It is specifically the intent of the Declarant to reserve unto itself,

its successors and assigns, the right to convey easements and rights of way over the Subdivision roads and utility easements to serve any and all lands later added to the Subdivision and any and all Lots created therein, and to serve lands lying outside the boundaries of the Subdivision.

B) Declarant expressly reserves unto itself, its successors and assigns, the right to add additional lands to the Subdivision, and if the Declarant does add additional lands to the Subdivision then the definitions contained hereinabove of "Subdivision" shall be deemed to include the lands so added and the definition contained hereinabove of "Lot" shall include all Lots created within said additional lands. The right herein reserved to the Declarant, its successors and assigns, to add additional lands to the Subdivision may be exercised by it any number of times. Further, Declarant specifically reserves unto itself, its successors and assigns, the right to burden the Subdivision roads, easements and rights of way, by granting easements and rights of way over the same to serve and to be appurtenant to lands added to the Subdivision and lands lying outside the boundaries of the Subdivision. It is specifically the intent of the Declarant to reserve unto itself, its successors and assigns, the right to grant easements and rights of way over the Subdivision roads and utility to serve any and all lands later added to the Subdivision and any and all Lots created therein, and to serve lands lying outside the boundaries of the Subdivision.

C) Declarant reserves unto itself, its successors and assigns, and declares for the benefit of the Association, its successors and assigns, a perpetual easement for the erection, maintenance and repair of subdivision signs within each subdivision easement, which easement shall include the right to erect, maintain and repair walls and lighting at the site of the signs and to landscape the area in the vicinity of the signs.

D.) Declarant expressly reserves unto itself, its successors and assigns, an easement which may but need not be assigned to the Association (and if assigned to the Association, which may but need not be assigned to the Architectural Review Committee) for the purpose of going upon each lot for cutting and maintaining views and vistas in the interest of shared enjoyment of distant scenes by adjacent and nearby Lot Owners. It is understood however, that Declarant, its successors and assigns, shall only maintain and cut views and vista to enhance the enjoyment of Owners and occupants of dwelling located upon adjacent or nearby lots, and said cutting and maintaining of views and vistas will be done selectively with the purpose of obtaining an artistic result with every effort being made to preserve specimen trees and plants. Nothing herein shall be construed to affirmatively require Declarant, its successors and assigns, to cut or maintain views and vistas. The costs incurred by Declarant, its successors and assigns, in cutting and maintaining views and vistas pursuant to this paragraph 13 D) shall be borne by the Lot Owners who are benefitted thereby, provided that no such Lot Owner shall be required to pay for the cutting and maintaining of views and vistas unless he requests that the same be done or consents to the same.

14. There is hereby established for the Subdivision an Architectural Review Committee ("ARC") to ensure the development of the Subdivision and the improvement of the Lots therein in accordance with this Declaration, and to control the type, nature, and design of all building, structures, and other improvements constructed within the Subdivision. The Declarant or any members, managers, agents of Diamond Falls Estates, LLC or specific persons may be appointed by Declarant and shall be the Architectural Review Committee, unless and until the Declarant shall assign such right and responsibility to the Association, in which event the Board of Directors or other governing body of the Association shall constitute, or shall have the right to appoint, the members of the Architectural Review Committee. At all meetings of the Architectural Review Committee, two-thirds (2/3) of its members shall constitute a quorum, and shall act by majority vote and keep proper records and minutes. No principal residence, garage or storage building shall be erected, placed, or altered on any Lot within the Subdivision until the proposed building and plot plans showing detailed specifications, elevations, dimensions, exterior color and finish, location of improvements, drives and parking areas shall have been specifically approved in writing by the Architectural Review Committee. In addition, no swimming pool, wall, fence, hedge used as a wall, or other structure or man-made improvement whatsoever shall be erected, placed or altered on any Lot within the Subdivision until the same shall have been specifically approved in writing by the Architectural Review Committee. No land clearing, filling, grading, shrub or tree removal or pruning, or landscaping shall be done on any Lot within the Subdivision until the plans for the same shall have been specifically approved in writing by the Architectural Review Committee. The Architectural Review Committee shall review all plans and specifications and requests to it, taking into consideration harmony of exterior design, color, and location in relation to other structures and Lots in the Subdivision. The Architectural Review Committee shall have the authority to grant variances to the set back requirements contained hereinabove. Every Lot Owner agrees for themselves, their heirs, successors and assigns, by the acceptance of their deed, that the Architectural Review Committee shall have total authority to accept or reject any plans or requests submitted to it and that refusal or approval of plans, locations, specifications, or other requests may be based by the Architectural Review Committee upon any grounds including purely aesthetic considerations. Provided, however, the Architectural Review Committee may not act arbitrarily or unreasonably.

The architectural Review Committee shall, from time to time, promulgate and provide upon request to Lot Owners, appropriate written design guidelines.

All plans, specifications, and other requests submitted to the Architectural Review Committee must be submitted at least (30) days prior to the anticipated commencement of the proposed work. All submissions to the Architectural Review Committee shall contain the name, address, and telephone number of the Lot Owner, and the name, address, and telephone number of any contractor or architect

involved. The Architectural Review Committee shall transmit its decision to the affected Lot Owner within fifteen (15) days of receipt by it of all information required or needed to make its decision. Under no circumstances may any structure be constructed within Diamond Falls Estates without prior ARC approval.

15. No outdoor clotheslines will be permitted on any Lot. No swing sets, sculptures, statues, or other artificial yard toys or adornments will be permitted on any Lot without the express prior written permission of the Architectural Review Committee.

16. No fuel tanks or similar storage receptacles may be maintained on any Lot unless the same are installed within a building, are buried under ground, or are otherwise installed so that they are not visible from any place outside the Lot.

17. Except as set forth in paragraph 13 D) hereinabove, no tree having a diameter of six (6) inches or more measured one (1) foot above the ground be cut or removed from any Lot without the express prior written permission of the Architectural Review Committee, unless such removal is necessary to effect the implementation of plans already approved by the Architectural Review Committee.

18. No permanent or temporary antenna of any kind for television, radio, short-wave, or any other use may be erected, placed, maintained, or located upon any Lot without the express prior written permission of the Architectural Review Committee, and any antenna approved by the Architectural Review Committee must be installed, painted and maintained in such a way as may be from time to time provided by the Architectural Review Committee. The provisions of this restriction specifically include dish and saucer type antenna larger than 18 inches in diameter.

19. No sign of any kind shall be displayed to the public view on any Lot, except as provided in paragraph 13 C) hereinabove, and except that with the prior written approval of the Architectural Review Committee, a sign displaying the owner's name and/or the property address, or a sign advertising the property for sale or rent may be maintained.

20. All mailboxes must be of a uniform design and color established by the Architectural Review Committee or the Declarant and must be approved in writing in advance by the Architectural Review Committee or the Declarant before being erected. No flagpole extending beyond seven feet in height or length shall be erected upon any lot or attached to any structure upon any lot and no flag may be flown for any reason at any time except the flag of the United States of America or the flag of the State of North Carolina unless approved in writing in advance by the Architectural Review Committee or the Declarant. No decorative items such as statuettes or renderings of animate or inanimate objects may be erected or maintained upon any Lot unless the same are installed so that they are not visible from any place outside the Lot and are approved in writing in advance by the Architectural Review Committee or the

Declarant.

21. Open, Grassy areas such as lawns and meadows shall be mowed at least every three weeks from April 15<sup>th</sup> to October 15<sup>th</sup>. Thereafter, Mowing shall be as needed.

22. No building constructed on any Lot shall have tar paper, asbestos, unfinished plywood or rough hewn irregular edged type siding. No building constructed on any Lot shall have an exposed metal chimney. No building constructed on any Lot shall have visible concrete blocks, and any and all concrete blocks used in construction on any Lot shall be covered with stone, brick, stucco, wood or similar siding. No building constructed on any Lot shall have a mansard type roof or flat roof. No residence or garage constructed or placed on any Lot shall have metal siding or a metal roof, unless approved in writing in advance by the Architectural Review Committee or the Declarant. Nothing in this paragraph shall be deemed to limit the authority and responsibility of the Architectural Review Committee.

23. All utility lines, including all electrical, telephone, cable television, water and sewer lines, installed in the Subdivision shall be installed underground, except that the Declarant shall have the right to install or permit the installation of primary electrical, telephone and cable television lines overhead.

24. No Owner or subsequent Owner of any Lot may grant an easement or right of way across the Lot for any reason or at any time to any person or entity other than the Declarant's successors and assigns unless the same shall first be approved in writing by the Declarant, its successors and assigns.

25. Each Lot and each Lot Owner shall and must automatically be a member of the Association. Each Lot and each Lot Owner shall be subject to all duly adopted articles, by-laws, rules and regulations, and resolutions of the Association. The by-laws of the Association, as they may be amended from time to time, are incorporated by reference herein.

26. The Declarant shall have the responsibility of constructing all roads up to the standard of a well-graded, well graveled, well-ditched, and well-drained road, but after such construction is completed the Declarant shall not have any further responsibility with regard to the roads and the maintenance and upkeep of said roads shall be the responsibility of the Association. Only the Declarant shall have the authority to name or change the name of roads in the Subdivision. The Declarant may, but is not obligated, to create well and water systems and other systems, facilities and amenities within the Subdivision. If any well and water systems or other systems, facilities or amenities are created by the Declarant in the Subdivision, the Declarant shall have the right, but not the obligation, to assign the obligation for the maintenance and upkeep of the same to the Association. The Declarant shall have the right to convey real property to the Association for use as common areas

for the Association and all Lot Owners. The Association shall have as its primary function the obligation to maintain and repair the roadways in the Subdivision after their construction by the Declarant and to maintain, repair and take other necessary actions with respect to such water systems, other systems, facilities and amenities, and common areas in the Subdivision as are installed by the Declarant and assigned to the Association or as are conveyed by the Declarant to the Association and/or which may have been installed by the Association. All such roadways, water systems, and other systems, facilities and amenities, the maintenance and repair responsibility of which is that of the Association commences having responsibility for the same. Each lot shall be assessed equally for the costs of the maintenance, repair and upkeep of the roadways, clubhouse, amenities and common areas maintained by the Association. Each Lot which has rights to any well or water system or other systems, facility amenities, or common areas, which the Association has the obligation to maintain and repair, shall be assessed equally for the maintenance and repair of the same. Provided, the Declarant shall not be assessed for any reason for more than three (3) Lots. The Association shall have such other and further powers as may be adopted and set forth in its by-laws as may now be in existence or may be adopted in the future, provided the Association may not supersede its limitation as to the number of Lots for which it may assess the Declarant.

If any person damages the Subdivision roads or common properties for any reason, that person shall be responsible for paying to repair the same to the original condition. Each Lot Owner shall, before the beginning of construction of a dwelling on any Lot, pay to the Association for the maintenance and repair of the Subdivision roads the sum of \$300.00, which shall be applied directly to the costs of maintenance and repair of said Subdivision roads. If construction on any Lot causes damage to the Subdivision roads in excess of \$300.00, the Owner of such Lot shall pay to the Association such amount as is necessary to repair the road to its original condition.

The Declarant shall not have any responsibility to maintain the Subdivision roads except to the extent of any other Lot Owner; up to a maximum of assessment for 3 lots.

The Association shall periodically, at least annually, assess each Lot Owner for his share of the costs and expenses of the maintenance, repair and upkeep of the roads, water systems and other systems, facilities, amenities, and common areas, the maintenance responsibility for which is that of the Association. Payment of such assessments shall be due thirty (30) days after notice thereof is sent. If not paid within said thirty (30) day period, such assessments shall be deemed delinquent and shall commence bearing interest from such time at the rate of the lower of eighteen (18%) percent per annum or the maximum amount allowed by law.

Any assessment levied against any Lot which so becomes delinquent

shall constitute a lien upon such Lot when filed of record in the office of Clerk of Superior Court for Macon County, North Carolina, in the manner provided therefore by the Planned Community Act, of the North Carolina General Statutes, or its successor statute. The claim of lien shall be filed in the name of the Association. The Association shall have the right to proceed in its own name in any court of competent jurisdiction. The claim of lien may be foreclosed in accordance with the Planned Community Act of the General Statutes.

If any delinquent assessment or enforcement of any other provision hereof is placed in the hands of any attorney for collection, there shall be added to the amount due all costs of collection or enforcement, including all reasonable attorneys' fees.

The lien shall include the amount of all interest which accrues and continues to accrue upon the assessment, and shall include the aforementioned costs of collection and attorney's fees.

As an additional remedy; all assessments, interest, costs and attorney's fees shall be and constitute the personal joint and several obligation of each Lot owner. The Association or any other Lot Owner may bring an action against the Lot Owners in default to seek a money judgment for, the amount of the assessments, interests, and costs of collection and attorney's fees.

Any person may purchase the Lot at any sale ordered pursuant to an action to foreclose the lien.

27. In the event of a violation or breach of any of these protective covenants, the persons and entities entitled to enforce them or anyone or more of them, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to restrain or enjoin the violation of the terms hereof.

28. This Declaration may be amended by means of a duly recorded amendment signed by the Declarant until such time as it has sold all lots in the Subdivision; including any lots added to the subdivision before the sale of all lots already included in recorded plats. After Declarant has lost the right to amend this Declaration as set forth above, this Declaration may be amended by means of a duly recorded amendment signed by the Owners of 85% of the Lots subject to this Declaration. This Declaration may also be amended by the Association by a vote of 85% of its members at a duly called members meeting for that purpose at which a quorum is present, and in such event the appropriate officers of the Association shall record the proper amendment.

IN WITNESS WHEREOF the Declarant has caused these presents to be properly executed.

DIAMOND FALLS ESTATES, LLC

BY: Shirley Buafo  
Shirley Buafo, Member Manager

State of Georgia, County of Bibb

I, Kathy Marie Phelps, a Notary Public of the County and State aforesaid, certify that Shirley Buafo, personally came before me this day and acknowledged that the foregoing instrument was signed by her as an official act of Diamond Falls Estates, LLC.

Witness my hand and official stamp or seal, this December 18<sup>th</sup>, 2008.

Kathy Marie Phelps  
Notary Public  
My Commission expires: June 7, 2011

Seal-Stamp

