

DEFECTS GUARANTEE FOR THE BENEFIT OF PENDER COUNTY

(Example Form)

THIS DEFECTS GUARANTEE, made and granted this _____ day of _____, 20____, by _____, hereinafter referred to as “ Subdivider” ; and _____, hereinafter referred to as “ Guarantor,” to PENDER COUNTY, a political subdivision of the State of North Carolina, hereinafter referred to as the “ County” (The designation Guarantor and County, as used herein shall include said parties, their heirs, successors and assigns and shall include singular, plural, masculine, feminine or neuter as required by context);

WITNESSETH:

WHEREAS, the Subdivider has applied to Pender County for approval of a development known as _____; and

WHEREAS, the Subdivider has submitted a final plat for approval for said development and all improvements required by the Pender County Unified Development Ordinance are complete; and

WHEREAS, the County, has determined that pursuant to the Pender County Unified Development Ordinance a Defects Guarantee is required as a condition of approval of the development and such Guarantee would benefit the public welfare;

THEREFORE THE SUBDIVIDER AND GUARANTOR, as a condition of final plat approval, makes the following warranty:

1. Purpose of Agreement

The purpose of this agreement is to provide a guarantee on all improvements required by the Pender County Unified Development Ordinance for _____.

2. Guaranty

- a. Subdivider hereby warrants that all utility taps, ramps, streets, pavement, sidewalks, drainage facilities, water and sewer lines, and/or other improvements, as required by the Pender County Unified Development Ordinance and proposed for the said development as presented and approved with the Preliminary Plat approved on the ____ day of____, 20____ will be free of defects in design and construction for one (1) year from the date of issue of a signed acceptance of construction by the Pender County Planning Director.
- b. In the event the County notifies the Subdivider of a defect within one year from the date of acceptance of construction of all improvements, it is hereby understood and agreed that Subdivider will correct such defect(s) within 30 days of receipt of a written “ Notice to Correct Defect” received from the County.
- c. The County Shall inspect any attempted repairs as soon as possible upon notification from the Subdivider that repairs have been completed, and shall not unreasonably delay or withhold approval of repairs.

2. Remedies

It is understood and agreed that in the event the Subdivider fails to correct such defect within 30 days of receipt of written notice by the Subdivider as set forth herein, a violation of the Pender County Unified Development Ordinance will exist on the property and the Subdivider will be subject to Penalties for Violations as prescribed in the Legal Provisions of said Ordinance. In addition, it is understood and agreed that upon the 60th day after the “ Notice to Correct Defect” is received by the Subdivider that approval of the development’s final plat will terminate and such termination of approval will prohibit any additional sale of lots in the development. The Subdivider further agrees that any sale of a lot after the termination of approval of the plat for the Development will constitute a separate offence under the provisions of said Unified Development Ordinance and that upon any successful verdict from a Court of Competent Jurisdiction, the Subdivider must pay the cost, including reasonable attorney fees, incurred by Pender County in

obtaining such verdict. The remedies noted herein shall be in addition to any other remedy the County may have at law, including injunctive relief.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.

FOR: SUBDIVIDER and/or PERSONAL GUARANTOR **

Print Name Title

Signature Date

STATE OF NORTH CAROLINA, COUNTY OF PENDER

I, _____, a Notary Public, certify that _____, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the _____ day of __, 20 _____.

Notary Public My Commission Expires: _____

(And For a Corporation)

Company Name

Print Name of Signer Title

Signature of Signer Date

ATTEST:

Secretary

STATE OF NORTH CAROLINA, COUNTY OF PENDER

I, _____, a Notary Public, certify that _____, personally came before me this day and acknowledged that he is Secretary of _____, a corporation of the State of North Carolina and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with the corporate seal, and attested by himself as its Secretary. Witness my hand and official seal, this the _____ day of _____, 20_____.

Notary Public My Commission Expires: _____

** If Subdivider is a corporation, a personal guarantee must also be provided by owner, developer, or other individual.

PRIVATE STREET STANDARDS, PENDER COUNTY - "Private Streets shall meet all construction and design standards as required for Secondary Roads for acceptance by NCDOT."

As Adopted By The Pender County Board Of Commissioners 3-15-04.