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 Pitt County, NC  
 Lisa P. Nichols REG OF DEEDS

BK **3567** PG **138-148**

NORTH CAROLINA  
 PITT COUNTY

PREPARED BY:  
 MCLAWHORN & ASSOCIATES, PA

*File: Gaylord McNally*

DECLARATION OF CONDITIONS, RESTRICTIONS  
 AND COVENANTS RUNNING WITH THE LAND

THIS DECLARATION, made on the date hereinafter set forth by BLACKWOOD, PARROTT & ROBERSON, LLC, a North Carolina limited liability company, hereinafter referred to as "Declarant," who does hereby covenant and agree to and with all other persons, firms or corporations now owning or hereafter acquiring as owners any tract or parcel of land in the area designated.

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Winterville Township, Pitt County, North Carolina, which is more particularly described as follows:

Lying and being in Winterville Township, Pitt County, North Carolina and being all of Blackwood, as shown on map recorded in Map Book 81, Page 141, Pitt County Registry.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of same, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Section 1: "Association" shall mean and refer to Blackwood Homeowners Association, Inc. its successors and assigns.

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Section 2: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3: "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4: "Common Area" shall mean all real property (including the improvements thereto) owned or maintained by the Association to be reserved to the Association at the time of the conveyance of the first lot described as follows:

Section 5: "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area, and shall be known when platted as lots 5 through 16 and 37 through 49.

Section 6: "Declarant" shall mean and refer to Blackwood, Parrott & Roberson, LLC and its successors and assigns.

Section 7: "Member" shall mean and refer to every person or entity who holds membership, as a lot Owner, in the Association.

## ARTICLE II

Section 1: Owner's Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2: Declaration of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

## ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1: Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2: The Association shall have two classes of voting membership.

Class A. Class A membership shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an

interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as then determined, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned, and notwithstanding any other provisions herein, shall not be assessed at any rate. Class B membership shall cease and be converted to the Class A membership when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, and in all events no later than October 1, 2019.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessment or charges for maintenance and electricity on all common areas, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time of the assessment. Such assessment shall not pass to his successors in title unless expressly assumed by them.

Section 2: Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, landscaping maintenance, the cost of repairs, electricity, replacements and additions, the cost of labor, equipment, materials management and supervision, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3: Basis and Maximum of Annual Assessments. No assessments shall be made on any lot until the platted lot shall have been conveyed by deed. The maximum annual assessment shall be Three Hundred Fifty and No/100 Dollars (\$350.00) per originally platted lot.

From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington D.C.) from the preceding month of July.

From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment for the next succeeding two (2) years may be increased above that established by the Consumer Price Index formula by a vote of the members, and for each succeeding period of two (2) years thereafter, provided that any such change shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in

person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days prior to the meeting, setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

The Board of Directors of the Association may fix an annual assessment at an amount not in excess of One Thousand and No/100 Dollars (\$1,000.00).

Section 4: Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy at the meeting duly called for this purpose.

Section 5: Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 hereof shall be sent to all members not less than thirty (30) days nor more than (60) days prior to the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) per cent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6: Uniform Rate of Assessment. Except as provided for Class B members, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a yearly basis.

Section 7: Date of Commencement of Annual Assessments and Due Dates. The annual assessments will be prorated at closing, provided for herein shall commence as to all Lots on the first day of January each year following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessments against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors of the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8: Effect of Nonpayment of Assessment and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear penalty from the due date at the greater of Twenty and No/100 Dollars (\$20.00) per month or the maximum amount permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape or deny liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9: Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10: Exempt Property. All property dedicated to and accepted by, a local authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina, shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE V COMMITTEES

The Board of Directors Association shall appoint an Architectural Control Committee, as provided in the Declaration. In addition, the Board of Directors of the Association shall appoint other committees as deemed appropriate in carrying out the purpose of the Association.

## ARTICLE VI USE RESTRICTIONS

Section 1: Use. No Lot shall be used except for residential purposes. There shall be a minimum foundation height of 24 inches. No Lot shall be subdivided by any Owner except with Declarant's prior written permission. No structure shall be erected, placed or permitted to remain on any Lot other than one detached single family dwelling not to exceed two and one-half stories in height, exclusive of basement, one detached structure not exceeding one and one-half (1 1/2) stories in height, to be used as a private garage for not more than two (2) vehicles and one (1) non-detached outbuilding constructed and used incidental to the residential use of the property. No garage shall open to or face to the front of the lot without the approval of the Declarant.

Section 2: No commercial use. No business or commercial enterprise may be carried on upon any Lot.

Section 3: Plan approval. No site preparation or initial construction, erection or installation of any improvement, including, but not limited to, dwelling units, outbuildings, driveways, fences, walls, signs, mailboxes or other structures shall be undertaken upon any Lot or parcel of land on the Properties without the prior written approval of the building plans, exterior paint or color schemes and exterior materials by the Declarant or its successors or designees. A dumpster is to be placed on each Lot at the commencement of any construction for debris. All exteriors to contain a minimum of 75% brick or masonry. A detailed landscaping plan must be approved by the Declarant or its successors or designees. All landscaping plans shall reflect and include a minimum of four (4) trees at least six feet in height to be planted in the front yard area and shrubbery covering the entire front elevation of the structure. Landscaping shall be completed by the time of occupancy, unless an extension is given by the Declarant. A detailed plan of the outside elevation shall be approved by the Declarant prior to construction with 8.5" x 11" in size recommended. All driveways must be constructed of concrete materials. All porch and deck rails shall be of PVC or wrought iron materials, and any other materials may be used

only with the prior written approved of the Declarant. It is the intent of the Declarant that all exteriors of the structures shall be harmonious with all of the other structures in Blackwood. No any structure of any type shall be started on any Lots until a plot plan showing the location of such structure has been approved in writing by the Declarant or its successors or designees. If no approval or rejection has been given for such planned use or for such plans which have been hand-delivered to the Declarant, its successors or designees within thirty (30) days after written application, the plan shall be deemed to have been approved.

Section 4: Minimum Square Footage. Any residence constructed on a Lot must have a minimum square footage, more specifically described as heated living area, exclusive of one-story open porches, garage and basements, of not less than Two Thousand Five Hundred (2500) square feet and a minimum first floor square footage of One Thousand Two Hundred (1,200) square feet.

Section 5: Structure Type. No mobile home, pre-fab, modular home, package home or other pre-built home shall be placed on any Lot. Any residence built on any Lot shall be "stick built" except that pre-fabricated roof trusses and pre-fabricated fireplaces and chimneys may be utilized.

Section 6: Setbacks. No buildings shall be located on any residential building plot nearer to any lot line than as shown on the recorded plat. No building, except a detached garage or other outbuildings located one hundred (100) feet or more from the front line shall be located nearer than 10 feet to any side lot line.

Section 7: Nuisance. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Owners and their invited guests shall refrain from playing loud music from any source whereas to disturb any other owner or their invited guests.

Section 8: Temporary structures. No trailer, basement, tent, shack, garage, barn or other outbuilding erected in the tract shall at any time be used as a residence temporarily or permanently nor shall any structure of a temporary character be used as a residence.

Section 9: Livestock and Pets. No barns, stables, and outbuildings for the purpose of maintaining horses or other livestock type animals shall be permitted on any Lot. No animals, livestock, poultry, or reptiles of any kind shall be raised, bred or kept on any portion of the Properties, except that no more than two domesticated dogs and cats and small non-offensive household pets may be kept by the Owner, provided that they are not kept or used for breeding or maintained for any commercial purpose. Pets kept outside must not constitute a danger or nuisance including, but not by way of limitation, excessive barking or causing property damage to other Owners or to Properties. When outside no animal may be staked out, and when not contained within a fenced area, all pets must be kept on a leash. No animal pens, runs, housing or like enclosure shall be kept or placed on any Lot; however, this shall not exclude proper fencing of the yard as permitted herein.

Section 10: Mailbox. No mail or paper box or other receptacle of any kind for use in the delivery of mail, magazines, newspaper or similar materials shall be erected or located upon any Lot except such receptacle of standard design as approved by the Declarant or its successors or designees.

Section 11: Parking. No trucks, tractors or trailers may be regularly stored or parked upon the Properties. This provision shall not, however, be interpreted to prohibit the owner of a pick-up truck, up to 1 ton in size, being used by any Owner for his personal conveyance, and such truck may be parked upon the Owner's Lot. No boat, trailer, mobile home, camper or

recreational vehicle shall be permitted to remain upon any street or any Lot unless it is located so as not to be visible from any street or road within the subdivision. No vehicle required by the State of North Carolina to have a current license may be kept on the Properties or any Lot for more than 10 days without a current valid license plate.

Section 12: Clotheslines. No outside clotheslines shall be erected or kept on any Lot.

Section 13: Satellite dishes. No satellite dish or comparable communication device having a size larger than eighteen (18) inches in diameter may be located on any Lot; further any such satellite dish or comparable communication device must be located in the back yard of any Lot. No transmitting tower or antenna exceeding a height of twenty (20) feet from ground level shall be placed, used or erected on any Lot, either temporarily or permanently. No solar panel shall be placed on the lot or the structure without approval of the Declarant.

Section 14: Fences. No fence shall be constructed, built or erected on any Lot, except for a wrought iron, aluminum fence or an all black coated chain link fence; and any such fence or all coated chain link fence shall be constructed, built or erected at a height no greater than six (6) feet. No fence of any kind shall be constructed on any Lot in the front yard of such Lot, said front yard being defined as that particular area of the yard located between the rear corner of the residence and the street. On corner Lots, a vegetation screen must be placed around the exterior of any fencing which abuts a public road. A privacy fence surrounding a swimming pool may be six (6) feet in height subject to approval by Declarant.

Section 15: Signs. No sign of any kind shall be displayed to the public view on any Lot or the Common Area except one sign of not more than eight (8) square feet advertising a Lot for sale, or signs used by a builder, developer, Realtor or Owner to advertise the Lot during construction and then for sale. No yard or lawn ornaments of any kind will be permitted to be placed on any Lot, except in the rear portion of the yard, said rear portion of the yard being defined as that particular area of the yard located between the rear corner of the residence and the back or rear lot line.

Section 16: All Lots, whether occupied or unoccupied, shall be well maintained and kept free of rubbish and debris. Rubbish, trash, debris, garbage and other waste must be kept only in sanitary containers which are in a screened area not generally visible from the road. All containers, or other equipment for storage or disposal of such waste materials shall be kept in a clean and sanitary condition and shall be disposed of on a regular basis. Burning of trash or debris is not permitted. All lawns must be kept neat and clean and no grass shall be allowed to grow more than six inches high.

Section 17: There shall be no discharging of guns, pistols, or any other firearm of any kind, caliber, type or method or propulsion; and no animal hunting is permitted on the Properties.

Section 18: All utilities, including but not limited to liquid propane gas tanks, must be placed underground.

Section 19: No bicycle, skateboard or other entertainment ramps or other temporary or permanent recreational structures may be erected or placed on any Lot.

Section 20: No above ground swimming pools shall be located on any Lot.

