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Prepared by and return to:
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72 Patton Avenue
Asheville, NC 28801

REGISTERED

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STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

Robert D. Knoll
DECLARATION OF REGISTER OF DEEDS
RESTRICTIVE COVENANTS BUNCOMBE CO., N.C.
THE KNOLLS AT BRUSH CREEK

^{AUGUST}
6 THESE RESTRICTIVE COVENANTS, made and entered into this the day of ~~July~~, 1996, by and between JAMES A. RIELS, hereinafter referred to as the "Developer" and all present and future purchasers and owners of lots within the Subdivision of the land known as THE KNOLLS AT BRUSH CREEK, hereinafter called "Property", which is shown on that plat of The Knolls at Brush Creek recorded in Plat Book 65 at Page 189, said plat, including any subsequently recorded plat, hereinafter called "Plat".

W I T N E S S E T H:

WHEREAS, Developer is the owner of Property; and

WHEREAS, Developer desires, for the benefit of Property and for the benefit of future purchasers and owners of lots within Property, that Property shall be developed and used exclusively as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and for the advantage which Developer will receive from the sale of such lots in a restricted Subdivision, Developer does hereby restrict Property as follows:

1. Property shall be used solely for single-family residential purposes. Only one single-family residence shall be built upon any lot within Property or upon any hereinafter permitted combinations of lots or portions thereof. No owner will erect, license, or suffer to be erected or maintained on Property or any part thereof, any commercial or manufacturing establishment or structure, factory, apartment house, lodging house, rooming house, hospital, sanitarium, multi-unit dwelling or structure designed for the use of more than one family, or at any time use or suffer to be used any house, building, or structure erected, adapted, or placed thereon for any such purpose.

2. No construction shall be initiated on any lot and no building, appurtenant structure or other improvement, including fencing, shall be erected, placed, or altered on any lot until the proposed building plans, specifications, or plat plan showing the proposed location of such building, structure, driveways, landscaping and/or parking areas, construction schedule and licensed general contractor shall have been approved in writing by Developer or by a committee or association of homeowners appointed by Developer for such purpose, their successors and assigns. Rejection or acceptance of any proposal shall be based primarily on the requirements of these Restrictive Covenants. No alterations may be made in any such proposal for improvements or construction after approval is given by Developer, except by and with the written consent of Developer. No alterations in the exterior appearance of any building or structure shall be made without like approval by Developer. One copy of all plans, specifications, and other data related to the proposal shall be furnished to Developer

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for its records. The Developer reserves the right to establish an approved builder list and require that all future construction be done by one of the "approved" builders. The Developer will charge an approved builder a fee to supervise the construction on the lot to ensure compliance with the approved plans. Said fee shall be paid, in advance, at the time the plans are approved.

3. Notwithstanding anything else to the contrary, the Developer shall be the sole arbiter for the approval of any plans for improvements on any lot in The Knolls at Brush Creek. The Developer may withhold approval of plans for any reason including purely aesthetic considerations.

4. The exterior of all houses and other appurtenant structures must be completed within one (1) year after the construction of same shall have commenced; provided, however, Developer may, upon application of the owner, approve an extension of the time for completion upon such grounds as Developer may deem reasonable. Landscaping shall be considered to be part of the construction process. A site plan must be submitted prior to construction and completion must be within one (1) year.

5. The finished floor area of the main dwelling structure, exclusive of carports, garages, breezeways, patios, porches, basements, and unfinished storage spaces and other unfinished areas, shall be not less than 2,000 square feet. Developer reserves the right, in its discretion, to reduce or otherwise modify the above square footage requirements in writing if Developer determines, in its discretion, that the minimum square footage requirements will impose an unreasonable hardship in connection with the proposed improvements.

6. No building shall be erected with exteriors of exposed cinderblocks, and no building shall be built where the siding thereof shall consist of asbestos shingles or aluminum, and no metal roofing shall be permitted on any structure within Property. There shall be no prefabricated buildings or structures placed upon lots within the Property except prefabricated components of buildings or structures such as window units, door units, roof trusses, or cabinet units, which shall be permitted. Developer reserves the right to modify and/or amend this paragraph to adapt the development of Property to future residential development standards.

7. No mobile home, trailer, basement, tent, shack, or other out building placed or erected on Property shall be used at any time as a residence, temporarily or permanently, nor shall any residence be moved on to a building lot within Property; provided, however, nothing in this paragraph shall prohibit the placement of a temporary shelter to be used by a contractor or builder during the construction of a main dwelling house on any lot within Property, as long as said temporary shelters shall not be used as a residence or be permitted to remain on the lot after completion of construction. No dwelling house or other structure erected on any lot within property shall be occupied as a residence or otherwise prior to its being substantially completed as herein required.

8. No building shall be erected or located nearer than twenty-five (25) feet from any road right-of-way, exclusive of those rights of way shown as "common drives" or "common driveways" on Plat. No building shall be erected or located nearer than ten (10) feet to any side, rear, or interior lot line. For the purpose of this paragraph, stoops, terraces, eaves, steps, and open, uncovered porches or decks shall not be considered as part of a building. No portion of a building shall be permitted to encroach upon any easement or right of way established on Property without consent of Developer.

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9. No numbered lot within Property shown on the aforesaid Plat of Property may be re-subdivided. Provided, however, prior to the sale of a lot or lots by Developer, Developer reserves the right to re-subdivide said unsold lots or add additional lands to unsold lots by recording an amended Plat, and these Restrictive Covenants shall bind said lots as re-subdivided. Provided further, Developer shall not create more than eleven (11) lots out of the area consisting of the initial eleven (11) numbered lots as shown on the original plat referred to in this Declaration. Any two or more numbered lots shown on said Plat may be combined by an owner to form a single residential lot which shall be subject to these Restrictions in the same manner as if said lot as combined was an original numbered lot within Property. Where a residence has been erected on land within Property consisting of two or more lots, none of said lots shall thereafter be sold, transferred, or conveyed separately if such sale, transfer, or conveyance would result in a violation of these Restrictive Covenants.

No existing right of way may be used for adjacent property without express written recorded consent of Developer.

10. The owner of each lot within Property shall provide adequate space for off-street parking for at least two automobiles on said lot prior to the occupancy of any dwelling thereon. Parking on the streets of Property shall not be permitted. Any RV kept within the Development must be stored in an approved garage as described in item 2 of these Restrictive Covenants.

11. No sign of any kind shall be displayed to public view on any lot within Property, except one (1) sign of not more than five (5) square feet advertising any lot for sale, or signs used by a builder, architect, or Developer to advertise Property during the construction and/or sales period. Nothing in this paragraph shall be construed to prevent Developer from erected or placing entrance display signs or signs designed to designate areas within Property including street signs.

12. No unlawful, improper, or immoral use shall be made of Property. No noxious or offensive activities shall be carried on upon any lot, nor shall anything be done upon any lot within Property tending to cause embarrassment, discomfort, annoyance, or a nuisance to the neighborhood. No livestock or poultry, except dogs, cats, or other outside pets, not to exceed four (4) in number, may be kept by the owner or occupant of a dwelling within Property, and in connection therewith, Developer reserves the right, in its absolute discretion, to declare any such animal a nuisance and require adequate enclosures approved by developer or the removal of such animal from Property. All pets must be kept on the owner's lot or on a leash.

13. No hunting shall be allowed within Property.

14. No motorcycles, minibikes, or other motorized two or three wheel vehicles shall be allowed within Property other than duly licensed vehicles which are used exclusively for transportation purposes, and then, only if properly managed, with it being further understood and agreed that such motorcycles, minibikes, or other motorized two or three wheel vehicles so licensed shall be allowed to operate within Property only upon the regularly platted road rights of way.

15. It shall be the responsibility of each lot owner within Property to prevent the development of any unclean, unsightly, or unkept conditions as to buildings or upon the grounds of a lot which shall tend to substantially decrease the beauty and attractive appearance of the neighborhood within Property.

16. No individual sewage disposal system shall be permitted on any lot within Property unless said system is designed in

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accordance with the requirements, standards and recommendations of the Buncombe County Health Department. Approval of such system as installed shall be obtained from such authority, or its successors. Unsightly objects, all garbage and trash containers which are kept upon any lot within Property must not be visible from adjoining lots or from any road rights of way shown on the aforesaid Plat of Property or from any "common drives" providing access to any lot within Property. No fuel tanks, bottled gas tanks, or similar storage receptacle may be exposed to view on any lot within Property, and may be installed only within the main dwelling house, within an enclosed garage, or may be buried underground. In addition, trash, garbage, or other waste shall be kept in sanitary containers until disposed of by the owner. No portion of any lot shall be used or maintained as a dumping ground for trash, garbage, or rubbish of any description. No wrecked, junked or undriveable motor vehicles shall be placed or kept within Property.

17. Utility and drainage easements affecting all lots within Property are reserved five (5) feet in width along each interior and rear lot line for the installation and maintenance of utilities and drainage facilities. Neither Developer, its successors and assigns, nor any utility company using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubberies, trees, flowers, or to any other improvements situated within the area of said easements and Developer, and any utility company as aforesaid, reserves the right to enter upon any of the lots within Property for the purpose of installing and maintaining any facilities necessary for the purposes of these easements.

Electric power, telephone, and any cable television service to all structures on the lots within Property shall be by underground cable or underground wires from the prospective utility company's main underground cables or lines to the respective structures on Property. The Developer further reserves the right to subject Property to a contract with Carolina Power & Light Company for the installation of street lights, either or both of which may require an additional payment and/or a continuing monthly payment to Carolina Power & Light Company by the owner of each residence within Property.

18. The street rights of way shown on Plat, including "common drives", shall be constructed by Developer and maintained as private streets. It is contemplated that Developer will turn over the streets to the North Carolina Department of Transportation for maintenance and may do so without further consent of the owners when and if Developer decides to do so. Until such time as appropriate action may be taken to obtain acceptance and approval of said streets into the State Highway System, it shall be the responsibility of the owners of lots within Property to maintain the streets and common drives, and the costs of such maintenance shall be pro-rated equally amount lot owners, each lot (or lot combined as allowed in paragraph 9) to be subject to one maintenance share. The streets constructed by Developer shall meet the North Carolina Department of Transportation subdivision standards so that the same can be accepted by said Department of Transportation if a majority of the owners in the Property later elect to do so and Developer has not already done so.

Developer, for itself, its successors and assigns, including a Homeowner's Association, created as hereinafter provided, reserves the right to establish rules and regulations for the maintenance of said streets (which may include street rights of way and those areas adjoining shown as "green space" on the Plat), including the requirement of assessments in the minimum amount of \$300.00 annually from each lot owner, excluding each lot owned by the undersigned Developer, for the purpose of maintaining, repairing, constructing, and improving the street rights of way and green space within Property. In the event a property owner owns

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one or more contiguous lots, the owner shall only pay the assessment of \$300.00 annually for the purpose of maintaining, repairing, constructing, and improving the street rights of way and green space within the Property.

Annual assessments shall be assessed on a calendar year basis and shall be due and payable on June 30th of each calendar year. Such assessments, together with interest at the legal rate and the costs of collection, shall be a charge upon the land and shall be a continuing lien from and after the due date until paid, upon the lot against which each such assessment is made. Any change in assessment must be approved by Developer.

19. No other easements, rights of way or rights of access shall be deeded, granted, or in any way given by the owner of any lot within Property to any other person, firm or corporation thorough and over any lot within Property without the written consent of Developer. In particular, no owner of a lot along the perimeter of Property shall permit such lot to be used for access to or from any real property not located within Property without the written consent of Developer.

The rights of way or easements established and dedicated within Property are not intended, dedicated, or in any way granted to any real property, or the owners thereof, adjoining Property and no right of way or easement shall be used by owners of real property adjoining Property without the written consent of Developer.

20. The clear cutting of trees on any lot is prohibited, except when such cutting has been approved by Developer in conjunction with the construction of improvements on a lot within Property. Selective cutting of trees is not prohibited; provided no trees with a diameter of more than 8 inches (measured 18 inches from ground level) shall be cut without the express prior consent of Developer.

21. No television or communications satellite dishes shall be permitted on Property, without the express approval of Developer, and no radio tower transmitters on a lot shall be allowed to extend above the highest peak or point of the roof or the residence of such lot. The location of such items and privacy shielding must be approved by Developer. Requests for approval shall be submitted pursuant to paragraph 2 of the Declarations and the Developer's approval shall be determined according to provisions of this Declaration.

22. All covenants, restrictions and affirmative obligations set forth in these Restrictive Covenants shall run with the land and shall be binding on all parties and persons claiming under them for a period of twenty (20) years from the date of recordation hereof, after which time said Covenants shall be automatically extended for successive periods of ten (10) years, unless and instrument signed by a majority of the then owners of lots affected by such Covenants has been recorded, agreeing to amend or terminate said Covenants in whole or in part.

23. In the event of a violation or breach of any of these Restrictive Covenants by any property owner, or agent of such owner, then developer, the Homeowner's Association, or the owner of any lot in the Subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, developer shall have the right, whenever there shall have been built on any lot in the subdivision any structure which is in violation exists, and summarily abate or remove the same at the expense of the owner if, after thirty (30) days written notice of such violation, it shall not have been corrected by the owner. Any such entry and abatement

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or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction, or condition in these Restrictive Covenants, however long continued, shall not be deemed a waiver of the right to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement.

24. The invalidation by any Court of any restriction or restrictions contained in these Restrictive Covenants shall in no way affect any of the other restrictions contained herein which shall remain in full force and effect.

25. In that it is contemplated that a Homeowner's Association may be created by Developer for the owners of the lots in The Knolls at Brush Creek, it is hereby expressly understood and agreed that each owner of each lot in this Subdivision agrees to and shall be a member of and be subject to the obligations and duly enacted By-Laws of any such Homeowner's Association.

IN WITNESS WHEREOF, we hereby set our hands and seals this the day and year first above written.

DEVELOPER:

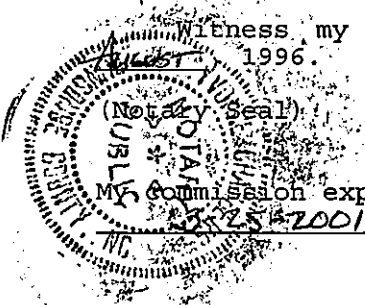
James A. Riels (Seal)
James A. Riels

Deborah Patten Riels (Seal)
Deborah Patten Riels

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, YVONNE CHAMBERS, a Notary Public for said County and State, do hereby certify that James A. Riels and wife, Deborah Patten Riels, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this the 5th day of August, 1996.



Yvonne Chambers
Notary Public

State of North Carolina, County of Buncombe

Each of the foregoing certificates, namely of Yvonne Chambers

a notary or Notaries public of the State and County designated is hereby certified to be correct.

Filed for registration on this the 6 day of August, 19 96 at 9:23 A. M.

Otto W. DeBruhl
OTTO W. DeBRUHL
Register of Deeds, Buncombe County

Anne E. Morgan
By: Asst./Deputy/Registrar of Deeds