

000022

000076

Prepared by: Gayle E. Ramsey

**DECLARATION  
OF  
RESTRICTIVE AND PROTECTIVE COVENANTS**

KNOW ALL MEN BY THESE PRESENTS, that RICHLAND RIDGE LIMITED PARTNERSHIP, a North Carolina Limited Partnership (hereinafter referred to as "Declarant"), is the owner and developer of that certain property known as Richland Ridge (generally hereinafter referred to as "the Property") which is situate, lying and being in Gloucester and Hogback Townships, Transylvania County, North Carolina, and more particularly described as being all of Lots 1 and 2 as shown on a plat thereof recorded in Plat File 8, Slide 489, Records of Plats for Transylvania County; all of Lots 3 and 4 as shown on a plat thereof recorded in Plat File 8, Slide 508, Records of Plats for Transylvania County; all of Lots 5 and 7 as shown on a plat thereof recorded in Plat File 8, Slide 303, Records of Plats for Transylvania County; all of Lots 6 and 8 as shown on a plat thereof recorded in Plat File 8, Slide 482, Records of Plats for Transylvania County; all of Lots 9 and 10, as shown on a plat thereof recorded in Plat File 8, Slide 260, Records of Plats for Transylvania County; all of Lots 11 and 16, as shown on a plat thereof recorded in Plat File 8, Slide 494, Records of Plats for Transylvania County; all of Lots 12 and 14, as shown on a plat thereof recorded in Plat File 8, Slide 491, Records of Plats for Transylvania County; and all of Lots 13 and 15, as shown on a plat thereof recorded in Plat File 8, Slide 496, Records of Plats for Transylvania County.

The objective of Declarant is to ensure the conservation and preservation of the unique environment of Richland Ridge and to provide for the use and enjoyment of this special property through careful development of homesites and certain common area improvements. Central to this development strategy is the creation of a common area within the Property which will comprise the majority of the Property and will be restricted to low-intensity recreation uses and managed and cared for under an on-going active program of stewardship. That portion of the common area which is shown on a plat of a conservation easement recorded in Plat File 8, Slide 516, Records of Plats for Transylvania County, has been designated as a conservation area and subjected to the terms of a Conservation Easement and Declaration of Restrictions and Covenants recorded in Book 458, page 770, Records of Deeds for Transylvania County. In order to ensure that the character and use of the houses and other structures and improvements which may be placed or made on a lot by its owner will protect and enhance the natural qualities and rich diversity of Richland Ridge and that the conservation area and the remainder of the Property will be utilized in a manner which will not be inconsistent with the development scheme authorized in the Conservation Easement and Declaration of Restrictions and Covenants recorded in Book 458, page 770, these restrictive covenants are being placed on record.

In order to implement the objectives herein set forth, Declarant, prior to its development and conveyance of certain designated areas situated within the Property, 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 of the developed and undeveloped areas located in the Property and the owners and future owners thereof.

000022 000077

NOW, THEREFORE, Declarant declares that all of the areas in the Property are held and shall be held, conveyed, and hypothecated or encumbered, leased, rented, used, occupied and improved for the development, improvement and conveyance of the various areas in the Property and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness thereof. The provisions of this Declaration are intended to create mutual equitable servitudes upon each of the various portions of the Property in favor of each and all other portions thereof; to create reciprocal rights between the respective owners of all such portions of the Property; to create privity of contract and estate between the owners of such portions, their heirs, successors and assigns; and shall, as to the owner of each such portion, his heirs, successors or assigns, operate as covenants running with the land for the benefit of each and all other such portions of the Property and their respective owners, present and future.

**ARTICLE 1  
LAND USE AND STRUCTURE TYPE**

Each lot shall be used for residential purposes only. No trade or business of any kind may be conducted on any lot, however, the occupants of any single-family dwelling located on a lot shall be entitled to engage in the practice of a profession, craft or trade on the lot, while residing in the residence, as long as any such work is performed in the residence or garage occupied by such occupant and such professional, craft or commercial activities do not utilize any other employees on the lot other than the occupant, any members of such occupant's immediate family who are residing on the premises, and one part time employee who does not work more than thirty (30) hours a week, the occupant's conduct of such activities does not involve any vehicular traffic other than private noncommercial passenger vehicles, and no signs advertising such occupant's professional, craft or other commercial activities on such lot are erected anywhere.

Lease or rental of a dwelling for residential purposes shall not be considered to be a violation of this covenant, however, all provisions of this Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of owners and which provide for sanctions against owners shall also apply to all occupants of any residential lot which is subject to this Declaration. Furthermore, while residences may be leased for residential purposes only, all leases shall require, without limitation, that the tenant acknowledge receipt of a copy of each of the following documents: this Declaration and all applicable amendments thereto, the bylaws of the property owners association or associations to which the lot on which the residence is constructed is subject, all use restrictions and rules and regulations to which such lot and the occupants of said lot are subject. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, Declarant and/or the Board of Directors of Richland Ridge Property Owners Association, Inc., (sometimes hereinafter referred to as "the Association") in addition to any other remedies available to it/them, may evict the tenant on behalf of the owner of said lot and specifically assess all costs associated therewith against such owner and the owner's property.

No building shall be erected, altered, placed or permitted to remain on any lot other than one

000022

000078

(1) detached single-family dwelling not to exceed three (3) stories in height and a private garage, and, with the approval of the Architectural Control Committee, a guest house and such other improvements as may be located on the lot as provided for under the provisions of Article 10. Any such guest house and other improvements must be constructed and erected in conformance with such guidelines as may be adopted by the Architectural Control Committee. The bottom floor of any three-story single family dwelling must be at least fifty percent (50%) below ground level.

Notwithstanding anything hereinabove set forth to the contrary, Declarant reserves the right to record supplemental declarations converting one or more lots or portions of lots and other areas owned by it located in the Property into common area with the use of any such lot or portion of a lot subsequent to the filing and recordation of any such supplemental declaration in the office of the Register of Deeds for Transylvania County to be governed by the provisions of Article 30 of this Declaration rather than by the provisions of Article 1.

## ARTICLE 2 ARCHITECTURAL CONTROL

In order to ensure that all driveways located on lots are attractively designed and are properly constructed and that all houses and other structures are of appropriate size and harmonious design, properly located in relationship to neighboring structures and adapted to the terrain of each lot, Declarant retains for the Architectural Control Committee (which Declarant shall appoint until such time as Declarant may elect to assign the right to appoint such committee to the Board of Directors of the Association) full architectural control in order to achieve these objectives. Accordingly, the Architectural Control Committee shall promulgate detailed standard procedures governing its area of responsibility and practice and shall promulgate design guidelines and application procedures and no driveway, building, fence, wall, garage or structure of any kind or any alterations or additions thereto shall be erected or placed on any lot nor any landscaping be done thereon until the complete plans for such improvements, including the specifically proposed design and location thereof on the lot, appearance, quality and manner of construction and/or installation of exterior trim, roofs, flashing, piping, foundations, windows, colors of buildings and other proposed improvements together with an application review fee in such amount as has been set by the Architectural Control Committee (and approved by the Board of Directors of the Association after said board has been assigned the right to appoint said committee) shall have been submitted in writing to and approved by the Architectural Control Committee. Such approval shall not be unreasonably withheld and shall be given or denied by said committee in writing within thirty (30) days after any such plans and other required information have been properly submitted to it. Denial of approval of plans, location, specifications and other matters requiring the approval of such committee may be based by such committee upon any reasonable ground, including purely aesthetic considerations.

A sketch plan showing the front and rear elevations may be submitted for preliminary approval before house plans are submitted. A plot plan showing the position on a lot of the driveway, house and any other proposed improvements for which approval is being requested must be presented to and approved by the Architectural Control Committee before any clearing is done

000022

000079

or trees removed from the lot. In order to ensure that the driveway to be constructed on each lot in the Property will not cause a drainage or erosion problem on the lot on which it is being constructed or elsewhere in the Property, either prior to, during or subsequent to the completion of the construction thereof, no construction of any building, fence, wall, garage or structure of any kind shall be commenced on a lot until either (1) a completed permanent driveway has been constructed thereon and approved by the Architectural Control Committee, or (2) in the event that a permanent driveway on such lot has not been fully completed in accordance with the plans previously submitted for approval by the Architectural Control Committee, the owner of such lot has given the Architectural Control Committee such guarantees (which may include, but not be limited to, the posting of a cash performance bond) as said committee may require in order to ensure that such driveway will be constructed within a manner and within a time period which will be acceptable to the committee.

The exterior of all houses and other structures must be completed within one (1) year after construction has commenced. Improvements not so completed or upon which construction has ceased for ninety (90) consecutive days or which have been partially or totally destroyed and not rebuilt within one (1) year, shall be deemed nuisances. All construction rubbish, trash and garbage must be regularly removed not less than once a week from any lot on which construction has commenced. Any such rubbish, trash or garbage left on a lot for more than one week shall also be deemed to be a nuisance. Declarant or the Architectural Control Committee may remove any such nuisances or repair or complete the same, if applicable, at the expense of the owner, the cost of which shall be levied as an assessment against the owner.

During site preparation and the construction of improvements on any lot, all vehicles conveying materials, equipment and laborers to the work site must enter and leave the Property by the public road and drive to and from the construction site by the most direct route feasible.

#### **ARTICLE 2A VARIANCES**

The Architectural Control Committee may authorize variances from compliance with any of the provisions of the design guidelines when circumstances such as topography, natural obstructions, aesthetic, or environmental considerations require, but only in accordance with its duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (i) be effective unless in writing, (ii) be contrary to the restrictions set forth in the body of this Declaration, or (iii) stop the committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.

000022

000030

**ARTICLE 2B  
LIMITATION OF LIABILITY**

No approval of plans, location or specifications, and no promulgation of detailed, standards and procedures by the Architectural Control Committee, or any agent thereof, shall ever be construed as representing or implying that such plans, specifications, standards or procedures comply with applicable laws, or that if followed will result in a properly designed structure or other improvement. Such approvals, standards and procedures shall in no event be construed as representing or guaranteeing that any residence will be built in a proper and workmanlike manner. No implied warranties of good workmanship, design, habitability, quality, fitness for purpose or merchantability shall arise as result of any plans, specifications, standards or approvals established, given or promulgated by the Architectural Control Committee, or any agent thereof. Neither the Architectural Control Committee, or any agent thereof, shall be responsible in any way for any defects in any plans or specifications. In all events, each member of the Architectural Control Committee shall be defended and identified by the Association against any and all expenses, including counsel fees, reasonably incurred or imposed upon him or her in connection with any action, suit, or other proceeding (including the settlement of any suit or proceeding, if approved by the then Board of Directors of the Association) to which he or she may be a party by reason of being or having been a member of the Committee. The members of such committee shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith.

**ARTICLE 3  
ARCHITECTURAL CONTROL COMMITTEE**

Declarant, until such time as Declarant shall have assigned such responsibility to the Board of Directors of the Association, and thereafter, the Board of Directors of the Association, shall appoint annually an Architectural Control Committee consisting of three or more competent persons, one of whom must be a licensed architect and be paid his customary fees for reviewing plans of proposed improvements and carrying out his other duties as a member of the Architectural Control Committee, to serve until their successors are appointed. A majority of said committee may also designate a representative to act for it. The committee's approval or disapproval as required by Articles 2 and 4 of these covenants shall be in writing. In the event that the committee or its designated representative fails to approve or disapprove any matter properly submitted for approval hereunder within thirty (30) days after proper plans and specifications and any other required information have been submitted, or in any event, if no suit to enjoin any construction or improvement required to be submitted for approval hereunder and properly submitted and started after the expiration of said thirty (30) day period has been commenced prior to the completion thereof, approval shall not be required and the provisions of these covenants specifying the manner in which proposed improvements must be approved shall be deemed to have been fully complied with.

000022

000031

**ARTICLE 4  
BUILDING LOCATION**

Subject to the limitation set out in Article 2 of this Declaration that the location of buildings and other proposed improvements on each lot must be approved by the Architectural Control Committee, each lot is subject to the further restriction that no building or any other structure shall be located on any lot nearer than fifty (50) feet from all lot lines which form a common boundary between one or more lots, or a common boundary between a lot and a portion of the common area, or a common boundary between a lot and lands located outside of the Property which are not owned by the United States Government or any agency thereof and twenty-five (25) feet from all lot lines which form a common boundary between a lot and lands located outside of the Property which belong to the United States Government or any agency thereof.

**ARTICLE 5  
TEMPORARY STRUCTURES**

No mobile home or trailer, basement, shed, shack, garage, or other outbuilding shall be used on a lot at any time as a residence, either temporarily or permanently.

No structure of a temporary character including, but not limited to, any travel trailer, mobile home or trailer, motor home, camper, camper trailer, basement, tent, shed, shack, garage, or other outbuilding shall be used on a lot at any time as a residence, either temporarily or permanently, however, the owner of any lot and the members of such lot owner's immediate family and any guests accompanying such lot owner shall be entitled to camp on the lot in nonpermanent tents.

With the exception of Declarant and any subsidiary corporation or business owned and operated by Declarant, which shall have such right at any time when Declarant or any such subsidiary corporation or business owned and operated by Declarant is engaged in the construction or repair of any building or any improvement on any portion of the property which is subject to this Declaration, and the further exception of those trucks, construction vehicles, and any commercial vehicles being utilized by any lot owner in connection with construction or repair of any improvement on such owner's lot (which has been properly approved pursuant to the appropriate articles of this Declaration) which may be parked in spaces designated by the Architectural Control Committee, during such times and for such periods of time that may be designated by Declarant or such architectural control committee, there shall be no outside storage or parking upon any lot outside of any garage which may be located thereon or upon any road in the Property which is owned or maintained by Declarant or by the Association or upon any common area of any commercial vehicle, truck (other than pickup trucks owned by such lot owner), tractor, travel trailer, mobile

000022 000082

home or trailer (either with or without wheels), motor home, camper, camper trailer, boat, or boat trailer which can be seen from any other lot or area within the Property other than the lot on which it is stored or parked.

**ARTICLE 6  
SEWERAGE DISPOSAL**

No sewerage system shall be permitted on any lot unless such system is located, constructed and equipped in accord with the minimum requirements of the appropriate governmental regulatory agencies having jurisdiction over the construction and operation of such system. Approval of such system shall be obtained from the governmental authority having jurisdiction.

**ARTICLE 7  
CLOTHESLINES, GARBAGE CANS, TANKS, WOODPILES, ETC.**

All clotheslines, garbage cans, above-ground tanks, woodpiles, and other similar items shall be located or screened so as to be concealed from view of the other lots, roads and areas in the Property outside of the lot on which such items are located or from any other area owned by Declarant which may be located outside of the Property. All rubbish, trash, and garbage shall be regularly removed from each lot and shall not be allowed to accumulate thereon. Furthermore no bedding or clothing of any type, nor any towels, clothes or other items of wearing or cleaning apparel, or any mops, brushes, brooms or other types of cleaning apparatus shall be hung or placed outside of any structure located on any lot in the Property in such a manner as to be visible from any road, or other lot or common area located in the Property or from any area owned by Declarant which may be located outside of the Property.

**ARTICLE 8  
NUISANCES**

It shall be the responsibility of each lot owner to prevent the development of any unclean, unhealthy, unsightly, or unkept condition on his or her lot. No lot shall be used, in whole or in part, for the storage of any property or thing that will cause such lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any plant, substance, animal, thing, device or material be kept upon any lot that will be noxious, noisy, dangerous, unsightly, or unpleasant or which will emit foul or obnoxious odors or will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of the Property. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the lot.

Noxious or offensive activity shall include but shall not be limited to (1) a public nuisance or nuisance per se, (2) any behavior which is inconsistent with both a reasonable pleasurable use of the properties of the owners of lots in the Property, their tenants and guests, and their reasonable

000022

000083

expectation of vacationing, year-round living, studying, working and recreating, free of excessively noisy behavior grossly disrespecting the rights of others, (3) flashing or excessively bright lights, (4) racing vehicles (regardless of the number of wheels), (5) offensive displays of public sexuality, (6) public drunkenness, (7) significantly loud electronic music distractions or vibrations which extend beyond property lines, (8) the discharge of fireworks, or (9) other similar unreasonable behavior or activity curtailing or likely to curtail the reasonable pleasure and use of the lots and other areas within the Property.

#### **ARTICLE 9 MAINTENANCE OF LOTS**

All lots, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such manner as to prevent their becoming unsightly, unsanitary or a hazard to health. If not so maintained, Declarant shall have the right, through its agents, employees and contractors to do so, the cost of which shall be recoverable from and charged against the owner of the lot. If any such cost is not paid within 45 days after a written, itemized request for payment has been submitted to such owner by Declarant, the cost may be levied by Declarant as an assessment against the owner of such lot. Neither Declarant nor any of its agents, employees or contractors shall be liable for any damage which may result from any such maintenance work performed.

#### **ARTICLE 10 LIVESTOCK AND POULTRY**

No animal, livestock or poultry of any kind shall be raised, bred or kept on any lot except as follows:

Dogs, cats or other household pets may be kept on lots in the Property, provided that they are not bred or maintained for commercial purposes and that whenever they are not inside of the single-family dwelling, guest house or garage on the lot on which they are kept, or accompanying their owner off of their owner's lot in the manner hereinafter provided for, they either remain on their owner's lot without being restrained or are confined within a fence or dog house, which has been designed, constructed, erected, installed and maintained in a manner which has been approved by the Architectural Control Committee. Dogs are permitted off of their owner's lot only when they are accompanied by and within sight of their owner and are under their owner's control by either a leash or by responding promptly to their owner's commands. Under no circumstances will pets be allowed to roam freely throughout the Property.

Any pet shall be muzzled which consistently barks, howls or makes other disturbing noises which might be reasonably expected to disturb any other lot owner or his tenants or guests. The breach of any of these restrictions, obligations and duties shall be a noxious and offensive activity constituting a private nuisance.

Horses and mules may be ridden on each lot by the lot owner, members of the lot owner's



000084

000022

immediate family and their guests, but may not be stabled or kept over night on any lot. Horseback and muleback riding in the Property outside of the lots is strictly prohibited except on such trails and under such terms and conditions as may be specified in written rules and regulations adopted by the Board of Directors of the Association in its sole discretion.

No fowl may be kept on any lots other than on Lots 13, 14 and 15 on which a maximum of 36 fowl may be kept provided that they are confined in a fenced enclosure located at least seventy-five (75) feet from all lot lines and road rights-of-way. All fences and other structures in which fowl are kept or confined must be designed, constructed, erected, installed and maintained in a manner which has been approved by the Architectural Control Committee.

**ARTICLE 11  
MAILBOXES**

All mailboxes and their support posts shall conform to the approved design(s) supplied by the Architectural Control Committee.

**ARTICLE 12  
TREE REMOVAL, SITE CLEANING, UNDER BRUSHING  
AND BURNING**

No trees, brush, or shrubs, including, but not limited to mountain laurel, wild azaleas, and rhododendron shall be trimmed on or removed from any lot or any portion of any other lands subject to this Declaration which may be designated as common area, prior to the proper approval of such trimming or removal by the Architectural Control Committee. Such approval shall not be unreasonably withheld and shall be given or denied by the Architectural Control Committee in writing within thirty (30) days after written plans showing such proposed trimming or removal and any other information requested by the Architectural Control Committee relating to such trimming or removal have been submitted to the Committee. Denial or approval of such trimming or removing may be based by the Committee upon any reasonable ground, including purely aesthetic considerations. In the event that the Committee, or its designated representative, fails to approve or disapprove any matter properly submitted for its approval hereunder within thirty (30) days after proper plans and any other requested information have been submitted, approval shall not be required and the provisions of these covenants specifying the manner in which any such proposed trimming or removal must be approved shall be deemed to have been fully complied with. No open burning of any kind shall be done before the lot owner has obtained the written permission of the Architectural Control Committee.

**ARTICLE 13  
SIGNS**

With the exception of those lots owned by Declarant on which Declarant may in its absolute discretion erect such signs as it may deem appropriate, no signs shall be allowed on any lot without

000022

000085

the written permission of the Architectural Control Committee. In no event shall any property identification sign or signs be erected on any lot which do not conform to the approved design supplied by the Architectural Control Committee.

**ARTICLE 14  
OUTDOOR LIGHTING**

No "street light" type of outdoor lighting shall be used, placed, installed or erected on any lot, nor shall any "all night" lights be used, placed, installed or erected on any lot. All outdoor lighting, including the location, intensity and duration of such lighting, must be approved by the Architectural Control Committee which shall also have the right at all times to prohibit the use of any outdoor light which is more visible from any portion of the common area or from any other lot than any standard lamp or other light fixture located within such lot owner's single-family dwelling using bulbs of a wattage normally used in such lamps or fixtures for the purpose of providing light for reading and routine room illumination.

**ARTICLE 15  
AERIALS AND ANTENNAS**

With the exception of satellite receivers having a diameter of not more than 18 inches which are screened by vegetation and are not visible from any portion of the common area or from any other lot, no radio, television or other aerial, antenna, dish, tower, or other transmitting or receiving structure, or support thereof, shall be erected, installed, placed, or maintained on any lot unless so erected, installed, placed, or maintained entirely within the enclosed portion of the individual residence or garage.

**ARTICLE 16  
POOLS**

No pool shall be erected, constructed or installed on any lot without the express written permission of the Architectural Control Committee who shall have the absolute right in its sole discretion to deny such permission on any reasonable grounds.

**ARTICLE 17  
UTILITY LINES**

No overhead utility lines, including lines for cable television, shall be permitted on any lot without the written approval of the Architectural Control Committee.

**ARTICLE 18  
ENERGY CONSERVATION EQUIPMENT**

No solar energy collector panels or attendant hardware or other energy conservation

000022 000085

equipment shall be constructed or installed on any lot unless it is approved by the Architectural Control Committee.

**ARTICLE 19  
FIREARMS**

The use of firearms within the Property is prohibited. The term "firearms" includes BB guns, pellet guns, and other firearms of all types, regardless of size.

**ARTICLE 20  
SUBDIVISION OF LOTS**

No lot shall be subdivided, however, with the express, written permission of Declarant, or, if applicable, the Architectural Control Committee, if Declarant has assigned such right to said committee, the boundary lines between adjoining lots may be changed by conveyances between such lot owners, provided, however, that after any such conveyance the size of any lot involved in such conveyance must not be less than ninety percent (90%) of its original size as shown on the original plat of said lot which is referred to in the first paragraph of this Declaration. Declarant, however, hereby expressly reserves the right to repeat any lot prior to conveyance of such lot by Declarant. Any such boundary line change or replatting must not be in violation of the applicable subdivision and zoning regulations and permission to change the boundary lines between adjoining lots may be denied by the Declarant, or if applicable, the Architectural Control Committee, in its sole discretion, on any reasonable grounds.

**ARTICLE 21  
EASEMENTS AND RIGHTS OF WAY**

An easement and right-of-way for travel of all kinds and with all types of vehicles are hereby expressly reserved by Declarant in and over all existing access roads which extend across platted lots and an easement and right-of-way are also hereby expressly reserved by Declarant over and across a strip of land ten (10) feet in width along each side of the rear line, side lines, and front line of each lot for the construction and maintenance of public, quasi-public or private utility lines or other devices which provide utility or similar services, including, without limitation, electric light, power and telephone service lines, storm water drains, land drains, public and private sewers and pipelines supplying gas and water. Declarant shall have the right to enter and permit others to enter upon said reserved roads and strip.

**ARTICLE 22  
OPTION TO PURCHASE**

In consideration of the agreement by Declarant to restrict other lots conveyed by it in the Property, each lot owner agrees that if he/she/it should desire to sell the lot owned by that lot owner

000022

000087

or any interest therein, to any person other than a brother, sister, parent, child or grandchild and the spouse of any such relative and receives a bona fide satisfactory offer therefor, the lot owner shall, before accepting said offer, submit to Declarant, in writing by certified mail, return receipt requested, the terms of said offer, the name(s) and addresses of the offeror(s) and an offer to convey the lot to Declarant or Declarant's assignee at the same price and terms. Declarant or Declarant's assignee shall have a period of fourteen (14) days after receipt of said written notice within which to exercise its right to accept said offer and shall have an additional period of not less than sixty (60) days within which to complete said transaction. In the event that Declarant or Declarant's assignee does not elect to purchase within said fourteen (14) day period, the lot owner making such offer may sell said lot to the offeror(s) named in said notice. Acceptance of said offer by Declarant or Declarant's assignee shall be in writing by certified mail, return receipt requested, to the lot owner making such offer at the address given in said notice. This option to purchase shall run with the land and be binding on all parties and all persons claiming under them for so long as Parker J. Platt shall live and for 20 years from the date of his death unless sooner rescinded.

**ARTICLE 23  
MEMBERSHIP IN ASSOCIATION;  
ASSESSMENTS FOR ROAD MAINTENANCE AND OTHER PURPOSES**

A. MEMBERSHIP IN ASSOCIATION. The owner of each lot, other than the Declarant, situated in the Property shall, by the acceptance of a deed or other conveyance for such lot, be deemed to become a member of Richland Ridge Property Owners Association, Inc., and shall be bound by the Bylaws and Rules and Regulations of said Association, including the obligation to pay dues of the Association and such assessments for lot maintenance, road maintenance and other proper expenditures as shall be levied by the Board of Directors of said Association. Road maintenance assessments shall include such sums as the Board of Directors of the Association shall, from time to time, determine as being said lot owner's fair share of the cost of repairing, maintaining and replacing those roads which provide such lot owner's property with access to the public road.

B. ASSESSMENTS. Each lot in the Property is served by roads which connect the Property with the public road which are currently owned and maintained by Declarant but will be conveyed by Declarant to the Association at such time as Declarant places on record a supplemental declaration to this Declaration dedicating said roads and the conservation area as common areas. The owner of each lot, with the exception of Declarant, shall, by the acceptance of a deed or other conveyance for such lot, be deemed obligated to pay to Declarant or to the Association, as the case may be, an annual assessment or charge for the purposes stated within these Articles to be fixed, established and collected on a lot by lot basis as hereinafter provided. Said annual assessment or charge shall be due on a date to be established by Declarant or the Association and pursuant to reasonable advance notice given in writing to all lot owners, provided that Declarant or the Association may make provision for payment thereof in installments. Each assessment or charge shall, when due, become a lien against the lot against which such assessment or charge is made. Upon demand, Declarant or the Association shall furnish to any owner or mortgagee a certificate showing the assessments or charges or installments thereof, due as of any given date. Each lot

000022 000088

subject to these Restrictions is hereby made subject to a continuing lien to secure the payment of each assessment or charge (or installment thereof) when due.

Such assessment or charge shall be an amount to be fixed from year to year by Declarant or the Association, which may establish different rates from year to year as it may deem necessary and may establish different rates for various general classifications of lots according to the use or location of said lots. Declarant or the Association may, from time to time, levy additional assessments as it deems necessary to meet the needs of the Property.

The funds arising from said assessment or charge or additional assessment or charge may be used for any or all of the following purposes: maintaining, operating, improving and replacing roads within the Property; protection of property from erosion; maintaining lots as provided in Article 9 herein; maintenance, improvement and lighting of common areas and facilities including recreational facilities within the Property; employing watchmen and security personnel; enforcement of these restrictions; paying taxes, indebtedness of the Association; insurance premiums, governmental charges of all kinds and descriptions; legal and or accounting fees; and, in addition, doing any other things necessary or desirable in the opinion of Declarant or the Association to maintain the Property in neat and good order and to provide for the health, welfare and safety of owners and residents of the Property.

Upon the failure of the owner of any lot to pay such assessment or charge, additional assessment or installment when due, Declarant or the Association shall have the right to collect the amount thereof by an action at law against the owner as for a debt, and may bring and maintain such other suits and proceedings at law or at equity as may be available. Such rights and powers shall continue in Declarant and the Association and the lien of such charge shall be deemed to run with the land; and the successive owners of each lot, by the acceptance of deeds therefor, shall be deemed personally to assume and agree to pay all unpaid assessments or charges or additional assessments which have been levied against the property and all assessments or charges or additional assessments as shall become a lien thereon during their ownership. All liens levied pursuant to the provisions of these Covenants shall include the amount of any unpaid assessments, plus any other charges thereon, including a late charge of TWENTY-FIVE DOLLARS (\$25.00) to cover administrative expenses, interest at one and one-half percent (1 ½%) per month from the due date, and costs of collection, including attorneys' fees. Each Notice of Assessment and lien shall be signed by Declarant or the Association or such other person or legal entity to whom Declarant or the Association has assigned the authority to file Notices of Assessment and Liens pursuant to a document filed in the office of the Register of Deeds for Transylvania County. Such lien shall be prior to all other liens recorded subsequent to the filing of such Notice of Assessment and Lien. Each owner, by acceptance of a deed or as a party to any other type of conveyance, vests in Declarant or the Association or such other person or legal entity to whom Declarant or the Association has assigned the authority to file Notices of Assessments and Liens the right and power to bring all actions against said owner personally for the collection of such charges set out in said Notice of Assessment and Lien as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement for real property. The lien provided for in this Article shall be in

000022

000089

favor of the party filing the lien and the party filing such lien shall have the power to bid on the lot in any foreclosure proceeding or to acquire, hold, lease, mortgage, or convey the lot. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged damage, inconvenience or discomfort arising from the completion by Declarant or the Association of repairs or improvements or removal of nuisances pursuant to the provisions of Article 2 of these Covenants or for any maintenance performed by Declarant or the Association pursuant to the provisions of Article 9 of these Covenants. All payments shall be applied first to costs and attorney fees, then to late charges, then to interest, then to delinquent assessments. Upon payment of all assessments and other charges, costs and fees provided for in a particular Notice of Assessment and Lien, or other satisfaction thereof, the party filing said lien shall cause to be recorded a further Notice stating satisfaction and the release of the lien thereof.

**ARTICLE 24  
TERM**

With the exception of the option to purchase reserved by Declarant in Article 22 of this Declaration, which shall terminate on the date specified therein, all of the restrictions, conditions, covenants, charges, easements and agreements contained in this Declaration shall run with the land and be binding on all parties and all persons claiming under them in perpetuity. However, if any of the covenants, conditions, restrictions or other provisions of this Declaration other than the provisions of Article 22 shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such other provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of Elizabeth, II, Queen of England.

**ARTICLE 25  
AMENDMENT**

These restrictions may be amended at any time and from time to time by the recordation in the office of the Register of Deeds for Transylvania County, North Carolina, of a written amendment to these restrictions signed by the owners of a majority of the lots in the Property and by Declarant, so long as Declarant owns any property which is subject to this Declaration. The signatures of such lot owners shall be properly notarized and any such amendment shall become effective upon the date of its recordation in the office of the Register of Deeds for Transylvania County, North Carolina, unless a later effective date is specified therein.

**ARTICLE 26  
ENFORCEMENT**

Declarant and each person to whose benefit these restrictions inure, including Richland Ridge Property Owners Association, Inc., and other lot owners in the Property, may proceed at law or in equity against any person or other legal entity violating or attempting to violate any provisions of these restrictions, either to restrain violation, to recover damages, or both.

00000000 000000

**ARTICLE 27  
SEVERABILITY**

Invalidation of any one of these restrictions by judgment or court order shall not in any way affect any of the other provisions, which shall remain in full force and effect.

**ARTICLE 28  
DELEGATION OF USE**

Any lot owner may delegate in accordance with the bylaws of any property owners association to which he may belong by virtue of owning a lot, and subject to reasonable rules, regulations and limitations as may be adopted in accordance therewith, his or her right of enjoyment to any common areas or other facilities which he is entitled to use by virtue of being a lot owner and/or a member of any such association or associations, to the members of his or her family, tenants and social invites and shall be deemed to have made a delegation of all such rights to the occupant of any leased building which may be situated on a lot which is subject to this declaration.

**ARTICLE 29  
ASSIGNMENT OF DECLARANT'S RIGHTS**

Declarant's rights under these restrictions may be assigned at any time, in whole or in part, to any other person, persons or legal entity, including, but not limited to, Richland Ridge Property Owners Association, Inc.

**ARTICLE 30  
USE OF COMMON AREA**

No planting or gardening shall be done upon any portion of any area within the Property which has been already designated as being a part of the conservation area hereinabove referred to or which may hereafter be designated as common area in any supplemental declaration placed on record in the office of the Register of Deeds for Transylvania County by Declarant pursuant to the provisions of Article 1 of this Declaration or upon any portion of any area within the Property which may be designated as common area on any recorded plat referred to in this Declaration except for such as may be approved by the Architectural Control Committee, nor shall any fences, hedges, walls or other improvements be erected or maintained upon any common area except as approved by the Architectural Control Committee. Except for the right of ingress and egress, the owners of lots may use the property outside their respective lots only in accordance with such reasonable regulations as may be adopted by the Architectural Control Committee or as is expressly provided herein. It is expressly acknowledged and agreed by all parties concerned that this article is for the mutual benefit of all owners and is necessary for the protection of all owners.

000022

000091

**ARTICLE 31  
AIR CONDITIONING UNITS**

Except as may be permitted by the Architectural Control Committee, no window air conditioning units may be installed in any house or other structure which is located on any lot which is subject to these covenants.

**ARTICLE 32  
ARTIFICIAL VEGETATION, EXTERIOR SCULPTURE AND SIMILAR ITEMS**

No artificial vegetation shall be permitted on any lot. Exterior sculptures, fountains, flags, and similar items must be approved in writing by the Architectural Control Committee before being placed on any lot.

**ARTICLE 33  
LIMITATION OF LIABILITY**

Any trail, road, picnic area, playground or other play areas or equipment, or other recreational facilities furnished or erected by Declarant or by the Association within the Property shall be used at the risk of the user, and Declarant and the Association shall not be held liable to any person for any claim, damage, or injury occurring thereon or related to the use thereof.

**ARTICLE 34  
DRAINAGE**

Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No owner or occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves a perpetual easement across each lot for the purpose of altering drainage and water flow.

**ARTICLE 35  
IRRIGATION**

No sprinkler or irrigation systems of any type which draw upon water from wells, community water systems, creeks, streams, or other waterways within the Property shall be installed, constructed, or operated within the Property unless prior written approval has been received from Declarant.

**ARTICLE 36  
PROHIBITION OF OIL AND GAS WELLS AND SUBSURFACE MINING**

No well for the production of, or from which there may be produced, oil, gas or minerals



000022

000092

shall be dug or operated upon any common area or upon any lot not owned by Declarant, nor shall any machinery, appliance or structure ever be placed, operated or maintained thereon in connection therewith, nor shall there be any subsurface mining or drilling activity thereon; provided further that the prohibition against drilling activity shall not include any drilling or excavation activity associated with the installation of utilities and communication facilities and any activity associated with soil testing, construction of building foundations or master drainage control.

**ARTICLE 37  
MOTORIZED VEHICLES**

Except for self-propelled lawn mowing machinery which is operated only upon a lot, golf carts which are approved by Declarant and are legally permitted to be operated on public roads, tractors and other motorized equipment utilized by Developer and/or the Association in developing and maintaining the Property, and licensed vehicles which can be legally operated on public roads, no motorized vehicles of any kind shall be operated within the Property. Notwithstanding anything hereinabove set forth to the contrary, the operation of motor vehicles by unlicensed persons on any roads or common areas in the Property is expressly prohibited, and no motorcycles, mopeds, motorbikes, three wheeled vehicles or all terrain vehicles may be operated within the Property other than those which may be operated by Declarant and/or the Association and their employees and agents for maintenance and security purposes, and those, if any, which may be operated by other individuals under such terms and conditions as may be specified in written rules and regulations adopted by the Board of Directors of the Association in its sole discretion. No improperly muffled vehicle or other vehicle from which emanates excessive noise, smoke or vibration shall be operated within the Property regardless of whether the same is licensed and/or operated on a road.

**ARTICLE 38  
WILLFUL DESTRUCTION OF WILDLIFE**

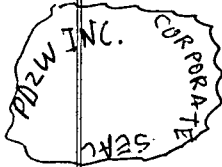
No hunting of any kind shall be allowed in the Property with the exception of species - specific hunts which have been authorized by the Board of Directors of the Association for the purpose of population control. Any violation of this provision with respect to common areas shall constitute both a breach of these covenants and a trespass against property owned by Declarant. Since the Property is not intended to be maintained as a wildlife sanctuary, any depletion of wildlife stock which may result from the process of Declarant's planned development of the Property, or any lot owner's use of such lot owner's lot in any manner which is not prohibited by this Declaration, shall not be deemed to be a violation of this section.

**ARTICLE 39  
CONFLICTS**

If there are conflicts or inconsistencies between the provisions of this Declaration and those of the Conservation Easement and Declaration of Restrictions and Covenants recorded in Book 458, page 770, Records of Deeds for Transylvania County, the provisions of the Conservation Easement and Declaration of Restrictions and Covenants recorded in Book 458, page 770, shall prevail in order to ensure that nothing is done on the Property which is inconsistent with the purposes and provisions of said Conservation Easement and Declaration of Restrictions and Covenants.

000093  
000022

IN WITNESS WHEREOF, RICHLAND RIDGE LIMITED PARTNERSHIP, a North Carolina Limited Partnership, has caused this instrument to be signed in its name by its General Partner, this the 23<sup>rd</sup> day of August, 2000.



RICHLAND RIDGE LIMITED PARTNERSHIP

By: PD2W Inc., General Partner

By: [Signature]  
Alfred F. Platt, Jr., President

Attest:

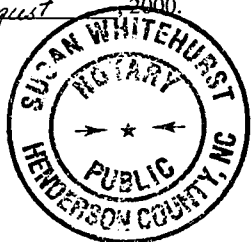
[Signature]  
John Witherspoon, Secretary  
STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

I, Susan Whitehurst, a Notary Public of said State and County, do hereby certify that ALFRED F. PLATT, JR., personally appeared before me this day and acknowledged that he is the President and that JOHN WITHERSPOON is the Secretary of PD2W INC., a corporation described in and which executed the foregoing instrument, that said corporation is a General Partner of RICHLAND RIDGE LIMITED PARTNERSHIP, a North Carolina Limited Partnership, a North Carolina General Partnership, and that the foregoing instrument was duly executed by said corporation of behalf of said partnership, that he knows the common seal of said corporation, that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by its President and that the said President and Secretary subscribed their names thereto and the said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and Notarial Seal, this the 23<sup>rd</sup> day of August, 2000.

[Signature]  
Notary Public

My Commission Expires: 12/30/02



STATE OF NORTH CAROLINA,  
COUNTY OF TRANSYLVANIA.

The foregoing certificate(s) of Susan Whitehurst  
Notary(ies) Public, is/are certified to be correct. This instrument was presented for registration and recorded in this office in Book 22, page 76.

This 23 day of August, 2000, at 4:40 o'clock P.M.

[Signature]  
Register of Deeds  
By: [Signature]  
Deputy Register of Deeds