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Otto W. DeBruhl, Register of Deeds

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**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

**DECLARATION OF RESTRICTIVE
COVENANTS FOR
GLEN MERRILL SUBDIVISION**

This Declaration of Restrictive Covenants, entered into on the 5th day of March, 2002, by and between **Glen Noe, LLC.**, (hereinafter referred to as "Developer") and the future Owners of Lots and Homes within the Subdivision designated as "Glen Merrill" on Plat Book 82, at Page 125, as recorded in the Buncombe County, North Carolina Register's Office, including any Lots added by the Developer to the Glen Merrill Subdivision in the future.

WITNESSETH:

THAT WHEREAS, Developer is the owner of the property(s) to be developed as the Glen Merrill Subdivision as shown on Plat Book 82, at Page 125 of the Buncombe County, North Carolina Register's Office, and any lands added by Developer which will be specifically identified at the time of their addition (hereinafter referred to as "Subdivision"); and

WHEREAS, Developer desires for protection and benefit of all persons who may hereafter become owners of lots created out of said Subdivision as indicated in the above described Plat and those plats of other Lots added to said Subdivision that may hereinafter be recorded such that the Subdivision property be developed, in its sole and exclusive discretion, with limitations, restrictions and uses. These covenants are to run with the land and be binding on all parties purchasing lots and all persons claiming under or through them until January 1, 2012 at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by vote of the owners of Lots within the subdivision in accordance with the The North Carolina Planned Community Act, as amended or then in effect.

NOW, THEREFORE, the Developer does hereby make the following declaration as to easements, restrictions, covenants, conditions, limitations, and uses which are for the purpose of the value and desirability of and which shall run with the real property identified herein and are 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
DEFINITIONS**

SECTION 1: "Association" shall mean and refer to Glen Merrill Homeowners Association, Inc., a North Carolina non-profit corporation, it's successors and assigns; and shall mean and refer to the Glen Merrill Homeowners Association, an unincorporated association until such time as a formal non-profit corporation is formed. As of the recording date of this Declaration, Association shall mean and refer to the Association which is formed by the agreement herein. Declarant may, at its option, subject additional

portions of the property to restrictions which are similar in form to those contained herein, in furtherance of the scheme of development set forth herein. Owners of lots in additional phases of Glen Merrill shall become members of the Association upon recordation of Declarations for such additional phases which define Association as that Association which is formed hereby.

SECTION 2: "Assessments" shall mean and refer to any and all fees or other charges levied by the Association, as determined by a simple majority vote of all Members of the Association.

SECTION 3: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of this or subsequent phases of Glen Merrill, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 4: "Property" shall mean and refer to that certain real property shown on Plat Book 82, at Page 125 of the Buncombe County, North Carolina Register's Office and any additional property added by the Developer as permitted herein..

SECTION 5: "Common Elements" shall mean and refer to all real property owned by the Association, or other such property owned by the Developer so designated, for the common use and enjoyment of Owners and shown on the Plat, together with any area in which the Association has an easement or right and an obligation of maintenance thereof.

SECTION 6: "Common Expenses" shall mean and include: (a) all sums lawfully assessed against the owner of any lot by the Association; (b) expenses of administration, operation, maintenance, repair, replacement of the Common Elements and facilities; (c) expenses agreed upon as Common Expenses by the Association; (d) hazard and liability insurance premiums as required.

SECTION 7: "Lot" shall mean refer to any numbered plot of land shown on the Plat, or subsequent additional Plats incorporated into the Subdivision, with the exception of the Common Elements.

SECTION 8: "Declarant" shall mean and refer to Glen Noe, LLC., its successors and assigns. The rights and obligations of the Declarant as described herein may be conveyed and transferred by Declarant by instrument recorded in the Buncombe County, North Carolina Register's Office.

SECTION 9: "Dwelling" shall mean and refer to a building situated upon a Lot and intended for use and occupancy as a residence.

SECTION 10: "Member" shall mean and refer to any person or entity who holds membership with voting rights in the Association, which membership shall be derived from ownership of any Lot within Glen Merrill Subdivision and any Lots added thereto, and specifically governed under the provisions of Article II, Section 2 provided herein.

ARTICLE II
MEMBERSHIP AND VOTING RIGHTS

SECTION 1: Every Owner of a Lot which is subject to assessments 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 three (3) voting memberships:

- (A) **CLASS A:** Class A Members shall be all owners of a Lot (with the exception of Declarant) each of whom shall be entitled to one (1) 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 the Owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

- (B) **CLASS B:** Class B Members shall be designated as such at the time of transfer of a Lot from the Developer, at the sole and exclusive discretion of the Developer. The collective Owners of any Lot designated as Class B Members by the Developer shall be entitled to a waiver of any regular annual Assessments, but not including special Assessments, for a period of One (1) year after the effective date of such designation. Any Class B membership shall be automatically converted into a Class A membership upon the happening of either of the following events, whichever occurs first:

- (1) Upon the date of any transfer to a third party of a Lot owned by a Class B Member.
- (2) One (1) year after the effective date of its designation by the Developer.

- (C) **CLASS C:** The Class C Member shall be the Declarant as hereinabove defined and shall be entitled to three (3) votes for each platted Lot owned by the Developer within various phases of Glen Merrill. The Class C Member, in consideration of its financial expenses relating to the construction of subdivision streets and improvement of the Common Elements, shall be entitled to a waiver of all Assessments levied by the Association as long as the Declarant owns any Lot or property subject to these Restrictions. Said waiver shall continue even after the Class C membership is converted to Class A membership. Class C membership shall be converted to Class A membership upon the happening of either of the following events, whichever occurs first:

- (1) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class C membership; or
- (2) When the Developer elects to convert to Class A membership; or
- (2) On the 1st day of January, 2012.

ARTICLE III

SPECIAL EASEMENTS RESERVED WITHIN GLEN MERRILL

SECTION 1: The existing spring located on Lot No. 3 as shown on the Plat of Glen Merrill Subdivision shall supply water feature with necessary water, and an easement for the supply of water by way of underground piping is hereby established as reasonably necessary for the purpose of inspecting, maintaining, repairing, and replacing any elements of the water system supplying water to the water feature, and shall appurtenant to and shall run with the Common Elements and with those Lots upon which said system is located.

SECTION 2: Developer Connection Easements: The Developer, in its sole discretion, reserves the right to connect to the subdivision streets at the two locations shown on that plat recorded in Plat Book 82, at Page 125 of the Buncombe County, North Carolina Register's Office, and at a location to be determined on the McIntyre Drive Private Driveway, to be specifically identified on a plat subdividing the "Future Development, 18.76 AC."

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1: CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant hereby covenants and each Owner of a Lot, by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association any annual Assessments or special Assessments to be established and collected as herein provided. The amount of such Assessments shall be determined by majority vote of the Members. The Declarant shall bear the responsibility of maintenance of Common Elements from the time of the recording of this Declaration until the conveyance of a Common Elements from the Declarant to the Association, however the Declarant may seek reasonable financial contribution from the Association for the cost of such maintenance of the Common Elements, and the Association shall thereafter be obligated to maintain the

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Common Elements so conveyed. Assessments, together with interest, cost and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such Assessment, together with interest, cost and reasonable attorney fees, shall be the personal obligation of the person or entity who was the Owner of a Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to their successors in title unless expressly assumed by such successors.

SECTION 2: PURPOSE OF ASSESSMENTS.

The Assessments levied by the Association shall be used exclusively to maintain Common Elements, including, but not limited to the following: the cost of repairs, replacements, and additions; the cost of labor, equipment, materials, management, and supervision; the procurement and maintenance of insurance related to the use of the Common Elements in accordance with the By-Laws; the employment of attorneys to represent the Association when necessary; and such other needs as may arise, as determined by the Association. Any such Assessment charged and collected shall relate to the cost of maintenance of the Common Elements and may include a reserve fund in a reasonable amount in anticipation of such costs, as determined by the Association. The Declarant intends to construct an entrance area, within an area reserved as a Common Element, which shall consist of a subdivision sign, water feature, landscaping, street signs, and street lighting. The cost of maintenance and replacement of said improvements of the Common Element, costs associated with water usage for the water feature and irrigation, as well as the electric power required for street lighting and operation of the water feature shall be Common Expenses.

SECTION 3: STREET MAINTENANCE.

- (A) **Primary Streets:** The Primary Streets within the Glen Merrill Subdivision shall be either private or designed and constructed pursuant to specifications issued by the North Carolina Department of Transportation for secondary roads or subdivision streets. After the completion of construction of said streets and satisfaction of other requirements by the North Carolina Department of Transportation, said streets shall be submitted to said Department for inclusion within the North Carolina Secondary Road System. After the completion of such construction and approval thereof by said Department, but prior to acceptance by said Department and inclusion of said streets in the secondary road system, the cost of continuing maintenance of said streets shall be a Common Expense as described herein and shall be subject to annual Assessment.
- (B) **Secondary Streets and Shared Driveways:** In addition to the Primary Streets, Glen Merrill Subdivision shall include the following Secondary Streets and Shared Driveways:
- (1) **Bridgeman Way Private Drive:** Lots numbered 15 and 16 shall be accessed by a Private Drive as shown on Plat Book 82, at Page 125 of the Buncombe County, North Carolina Register's Office. Bridgeman Way will be maintained by the Association in an all-weather condition, however, the costs for such maintenance shall be shared on an equal basis by the Owners of Lots numbered 15 and 16 only. The Association shall make all necessary arrangements for such maintenance in its sole and exclusive discretion, and shall issue a special Assessment, as reasonably necessary to pay for any maintenance of Bridgeman Way, and such special Assessment shall be payable solely by the owners of Lots numbered 15 and 16. In the event that the Owner of Lot 17 builds a driveway which connects to the Bridgeman Way Private Drive, then they shall also be obligated to share in the maintenance expenses with Lots 15 and 16 on an equal basis, and shall be subject to special Assessments relating thereto.
 - (2) **McIntyre Drive (private extension):** Lots numbered 19, 20, 21, 22, and 23 shall be accessed by a Secondary Street to be known as the McIntyre Drive Extension, and to be specifically identified on a plat subdividing the "Future Development, 18.76 AC." as shown on Plat Book 82, at Page 125 of the Buncombe County, North Carolina Register's Office. The private extension portion of McIntyre Drive will be maintained by the Association in an all-weather condition, however, the costs for such maintenance shall be shared on an

equal basis by the Owners of Lots numbered 19, 20, 21, 22, and 23 only. The Association shall make all necessary arrangements for such maintenance in its sole and exclusive discretion, and shall issue a special Assessment, as reasonably necessary to pay for any maintenance of the McIntyre Drive Extension, and such special Assessment shall be payable solely by the owners of Lots numbered 19, 20, 21, 22, and 23. In the event that the Owner of Lot 18 builds a driveway which connects to the McIntyre Drive Extension, then they shall also be obligated to share in the maintenance expenses with Lots 19, 20, 21, 22, and 23 on an equal basis, and shall be subject to special Assessments relating thereto. Furthermore, in the event that the Developer elects to connect to the McIntyre Drive Extension, as provided in Article III, Section 2 herein, then the owners of any properties served by a connection to the McIntyre Drive Extension, shall share, on a *pro-rata* basis with the Owners using such, the costs for any maintenance or improvement of the McIntyre Drive Extension, however, in the event that the Developer elects to connect to the McIntyre Drive Extension solely for the limited purpose of assessing utility related improvements, then such connection will not be subject to participation in the shared costs of maintenance or improvements.

(3) McIntyre Drive (private driveway extension): Lots numbered 21 and 22 shall be accessed by a Private Drive to be known as the McIntyre Drive Private Driveway, and to be specifically identified on a plat subdividing the "Future Development, 18.76 AC." as shown on Plat Book 82, at Page 125 of the Buncombe County, North Carolina Register's Office. The private driveway extension to McIntyre Drive will be maintained by the Association in an all-weather condition, however, the costs for such maintenance shall be shared on an equal basis by the Owners of Lots numbered 21 and 22 only. The Association shall make all necessary arrangements for such maintenance in its sole and exclusive discretion, and shall issue a special Assessment, as reasonably necessary to pay for any maintenance of the McIntyre Drive Private Driveway, and such special Assessment shall be payable solely by the owners of Lots numbered 21 and 22. In the event that any of the Owners of Lots numbered 20 and/or 23 build a driveway which connects to the McIntyre Drive Private Driveway, then they shall also be obligated to share in the maintenance expenses with Lots 21 and 22 on an equal basis, and shall be subject to special Assessments relating thereto. Furthermore, in the event that the Developer elects to connect to the McIntyre Drive Private Driveway, as provided in Article III, Section 2 herein, then the owners of any properties served by a connection to the McIntyre Drive Extension, shall share, on a *pro-rata* basis with the Owners using such, the costs for any maintenance or improvement of the McIntyre Drive Private Driveway, however, in the event that the Developer elects to connect to the McIntyre Drive Private Driveway solely for the limited purpose of assessing utility related improvements, then such connection will not be subject to participation in the shared costs of maintenance or improvements.

- (C) Each Owner of a Lot shall pay a non-refundable "Special Construction Impact Assessment" in the amount of \$500.00, or in an amount as reasonably adjusted by the Declarant and/or Association, prior to the commencement of any construction or improvement of any Lot in the Glen Merrill Subdivision. This "Special Construction Impact Assessment" shall be held by the Association and used for the maintenance and repair of any subdivision streets or other Common Elements impacted by construction activity. The Declarant and/or the Association may in its sole and exclusive discretion grant a waiver or issue a refund of any "Special Construction Impact Assessment" provided herein.

SECTION 4: NOTICE AND QUORUM FOR ANY ACTION AUTHORISED UNDER SECTION 3. Written notice of any meeting called for the purpose of taking any action authorized under section 3 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60%) percent 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 requirement and the required quorum shall apply at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 5: UNIFORM RATE OF ASSESSMENT.

Annual Assessments must be fixed at a uniform rate for all Lots. Special Assessments may be applied to any specific Lot(s), as provided under Article III, Section 3 herein, or as reasonably necessary to make improvements or perform maintenance for the exclusive benefit of any such assessed Lot(s).

SECTION 6: DUE DATES OF ANNUAL ASSESSMENTS.

At least thirty (30) days in advance of each annual assessment, the Board of Directors shall fix the amount of the annual assessment against each Lot and send written notice of assessment to each Owner subject thereto. The due dates of such assessments shall be established by the Board of Directors; such assessments shall be payable on the due date, but may be collected in monthly, quarterly, or by annual installments, as established by the Board. 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.

SECTION 7: EFFECT OF NONPAYMENT OF ASSESSMENTS & REMEDIES.

Any assessment not paid within thirty(30) days of the due date shall bear interest from the due date at a rate of eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose its lien against the Lot against which the delinquent assessment has been levied. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of Common Elements and/or Secondary Streets, abstention from Association actions, or abandonment of their Lot.

SECTION 8: SUBORDINATION OF THE LIEN TO MORTGAGES.

The lien for the Assessments provided for herein shall be subordinate to the lien of any mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding *in lieu* (not to include a deed given as settlement *in lieu* of foreclosure) thereof shall extinguish the lien of such assessments as to payments which became due prior to such exempted sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof. Nothing herein shall prevent and any mortgagee from, at its option, paying any delinquent obligations of an Owner. The Association shall notify by registered mail, return receipt requested, any mortgagee of any delinquency or default in the presence of any obligations of an Owner prior to taking any action against such Owner which would affect the mortgagee.

ARTICLE V

ARCHITECTURAL CONTROL

SECTION 1: APPROVAL OF PLANS AND SPECIFICATIONS.

No building, fence, wall, deck, mailbox or other structure shall be commenced, erected or maintained within Glen Merrill, nor shall any exterior addition to, change or alteration thereof be made until the plans and specifications shall have been submitted and approved in writing by an Architectural Committee composed of two (2) or more representatives appointed by the Declarant. The Declarant may transfer, at its sole discretion, its right to appoint members of the Architectural Committee to the Association. In the event that an Architectural Committee has not been formed, then the Declarant (or the Association's Board in the event of a transfer of such rights) shall act as the Architectural Committee.

Submissions to the Architectural Committee shall include a site plan showing landscaping which complies with standards published by Architectural Committee which shows the location of all planned driveways, walks, parking areas or other improvements, where applicable, and the relation of the location of such improvements to the building setback lines provided for in this declaration or as shown on the plat(s) for Glen Merrill Subdivision. Any documents submitted shall also name the licensed general contractor, proposed builder, or other proposed individuals who shall be responsible for construction or installation of the improvement and compliance with this article. Plans for Dwellings, structures, and any other proposed improvements shall show front, side and rear elevations and shall include the kind, material and basic exterior finishes of and colors to be used in the construction of such improvement(s). The Architectural Committee shall have the right to enforce compliance with this Declaration, and shall have the sole discretion to determine the standards referenced herein and to approve or deny any submission.

In the event the Architectural Committee fails to approve or disapprove any submission of plans, specifications and/or site plans within thirty (30) days after said submissions have been properly delivered, approval will not be required and this article will be deemed to have been fully complied with.

The Architectural Committee shall have the right to charge a reasonable fee for reviewing each application for approval of plans and specifications, the Owner shall be obligated to begin construction and complete the same in conformity with such plans as have been previously approved by the Architectural Committee, and the Architectural Committee shall be entitled to stop, through injunction or any other legal means, all construction in violation of these restrictions.

SECTION 2: ARCHITECTURAL STANDARDS.

In addition to those general rules of the Architectural Committee promulgated pursuant to this article, construction of improvements on any Lot shall conform to the following standards:

- (A) All Dwellings shall be constructed pursuant to the North Carolina Building Code by duly licensed building contractors and shall be constructed with framing assembled on-site. Construction of Dwellings shall not utilize modular wall sections or other off-site construction of major structural portions of the Dwelling, with the exception of roof and floor trusses.
- (B) All Dwellings or other improvements must be roofed with shingles or other coverings as approved by the Architectural Committee.
- (C) All Dwellings must include a garage must be constructed to accommodate a minimum of two standard automobiles, and construction of any such garage must be pre-approved by the Architectural Committee.
- (D) The Owner of any Lot shall, prior to completion of any Dwelling, purchase, at a price reasonably determined by the Declarant (currently designated as \$250.00), a standardized mailbox to be supplied and erected by the Declarant.
- (E) Landscaping shall be provided for in the plan and construction of the Dwelling and landscaping shall be completed within five months after receiving a Certificate of Occupancy, Certificate of Compliance, or upon completion of construction of the Dwelling located on the Lot.

SECTION 3: APPROVAL OF CONTRACTORS.

The Architectural Committee shall have the right to approve or reject submission from an Owner solely based on its rejection of the licensed general contractor named in the application.

**ARTICLE VI
PROTECTIVE COVENANTS**

SECTION 1: RESIDENTIAL USE.

All Lots shall be used, improved and devoted exclusively to residential use. No buildings shall be erected, altered, placed or permitted to remain on any Lot other than one single-family Dwelling (with attached garage) not to exceed two stories in height above the highest natural ground elevation existing under the foundation of same and not including more than one underground, one story basement or crawlspace, unless the same shall be approved in advance by the Architectural Committee provided for herein.

SECTION 2: BUILDING SIZE AND REQUIREMENTS.

In the case of a one-story residence, the main floor shall contain not less than 2,600 square feet of heated, finished living area. In the case of a one-and-one-half-story residence, the structure shall contain not less than 2,800 square feet of heated, finished living area. In the case of a two-story residence, the structure shall contain not less than 3,000 square feet of heated, finished living area. Declarant (or the Architectural Committee after transfer of Declarant's rights) reserves the right to grant a 15% variance of square footage minimums. This square footage variance and the allocation thereof in the floor plan is to be based on the sole discretion of the Declarant and/or the Architectural Committee. Under this

restriction, split-level split-foyer homes shall be regarded as two-story residences. Heated, finished living space excludes; basements (whether daylight or underground), porches, breezeways, garages, patios and greenhouses. Additionally, no floor or level of any Dwelling, which floor or level is wholly or partially below the natural grade of the front elevation of the Dwelling shall be considered heated, finished living space.

SECTION 3: DRIVEWAYS, PARKING AREAS AND LANDSCAPING.

Any driveway intersecting the Subdivision Streets, both primary and secondary, must comply with any applicable standards promulgated by the North Carolina Department of Transportation, must be paved with concrete or other paving materials approved in advance by the Architectural Committee and shall be completed at occupancy of the Dwelling or within sixty (60) days after exterior construction is completed. All other driveways and parking areas must be paved with concrete or other paving materials approved in advance by the Architectural Committee, and shall be completed in accordance with the same time requirements as provided herein for intersecting driveways. Landscaping shall be completed within five months of the completion of the Dwelling unit, which completion shall be determined by occupancy thereof or by issuance of the certificate of completion by the applicable governmental unit. Such landscaping shall be done pursuant to the landscaping plan approved in advance by the Architectural Committee. If the Owner shall default under his obligations described in this section, the Declarant (or the Architectural Committee after transfer of Declarant's rights) may provide for the completion thereof and may enforce the same by suit or filing of a mechanics/materials man lien against the Lot of such Owner. In the event that such action to enforce is necessary, then the Declarant and/or the Architectural Committee may include reasonable fees of attorneys incurred by reason of such default in any such claim.

SECTION 4: NUISANCES.

No noxious or offensive activities shall be conducted upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No plant, animal, device or thing of any sort whose normal use or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in Glen Merrill, the Lot Owners, tenants and guests thereof may be maintained. Any construction activity within the Glen Merrill subdivision shall be restricted to the hours after 7:00am and before 10:00pm from Monday through Saturday. No construction activity shall take place on Sundays or on Legal Holidays. Alternate restrictions on construction hours shall be issued in the sole discretion of the Declarant and/or the Association.

SECTION 5: RESTRICTION ON FURTHER SUBDIVISION.

No Lot shall be subdivided, or its boundary lines relocated, for any purpose other than to merge an additional Lot or part thereof so as to create a Lot larger than or of size equal to the original Lot, or for the adjustment of Lot boundaries as may be reasonably necessary in order to comply with zoning ordinances, building codes, or Health Department requirements. Developer reserves to itself and its successors in interest (provided the transfer to such successor specifically identifies the transfer of such right), the right to further subdivide any areas designated as "Future Development" or to adjust Lot boundaries in its sole discretion at anytime during its ownership of such property. Lots numbered 20, 21, 22, and 23, to be specifically described in a plat to be recorded at a future time shall be permitted to construct one additional Dwelling which must be of similar style and materials as principal Dwelling in accordance with all state and local standards and ordinances, and may be used as a guest house. Any such guest house shall be for friends and relatives of the residents of the primary Dwelling and shall not be used as a rental. Any such additional Dwelling must be pre-approved by Declarant and/or Architectural Committee.

SECTION 6: ANIMALS.

Generally recognized house or yard pets, in reasonable numbers, may be kept and maintained at a Lot, provided such pets are not kept or maintained for commercial purposes. All pets must be kept under the control of their owner when they are outside the occupants premises and must not become a nuisance to other residents at any time. The Association shall have the exclusive right to determine "reasonableness" as it applies in this section.

SECTION 7: PARKING.

No parking or storage of unlicensed, un-inspected or non-operable vehicles shall be allowed on any lot outside a Dwelling. Except for emergency repairs, no person shall repair, restore or store any vehicle,

boat, trailer or recreational vehicle upon any lot outside a Dwelling. Such parking, storage or repair may be undertaken only within a closed wall garage, or at the sole discretion of the Architectural Committee, in such other area which is not visible from any dwelling situated on other Lots or from any subdivision streets within the Glen Merrill subdivision.

SECTION 8: MOTOR VEHICLES.

All motor vehicles shall be maintained in proper operating condition so as not to be a nuisance by noise, exhaust emissions or otherwise. No motor vehicles shall be driven on pathways, unpaved Common Areas, or any roadway shoulders within the Glen Merrill subdivision.

SECTION 9: OUTSIDE ANTENNAE.

No outside radio or television antennae or satellite dishes shall be erected on any Lot, except as approved in writing by the Architectural Committee. Satellite dishes of no more than twenty-four (24) inches in diameter will be allowed within the Glen Merrill subdivision, subject to approval of Architectural Committee.

SECTION 10: TRASH RECEPTACLES.

All trash shall be kept only in trash receptacle and in areas upon a Lot, at the sole discretion of the Architectural Committee, such that it is not visible from any subdivision street.

SECTION 11: EROSION CONTROL.

The Owner of any Lot shall, by acceptance of a Deed for a Lot, be obligated to provide adequate erosion control measures as a part of the construction process in order to minimize siltation or erosion of areas outside the Lot of such Owner. It shall be the duty of the Owner to design and execute such control measures so as to avoid damage to other Lots or properties. If such Owner has not provided adequate control measures which comply with applicable erosion control regulations, or if the Owner is in violation of the section, Declarant and/or Association may, after five days written notice to such Owner perform such measures, in which case the Owner agrees to reimburse, within Thirty days, all costs associated with such control measures.

SECTION 12: SIGNS.

No permanent signs of any kind shall be displayed or in such a way that is in public view on any Lot. After occupancy, a sign of not more than five square feet advertising the property for sale or rent shall be allowed upon any Lot. Nothing in this paragraph shall be construed to prevent Declarant from erecting an entrance display sign, signs designed to designate areas within the Glen Merrill subdivision, or any street signs for subdivision streets.

SECTION 13: EXTERIOR FINISHES.

All exposed chimneys and foundations shall be veneered with brick or stone, or other such materials as approved by the Architectural Committee. All materials used on exteriors of Dwellings and other improvements shall be approved in advance by the Architectural Committee. Retaining or decorative walls shall be brick, stone or other material approved by the Architectural Committee. Unpainted sheet metal may not be exposed to the exterior. All roof stacks and vents shall conform to the color of the roofing material used and shall be installed on the rear side of the roof ridgeline of a Dwelling, as viewed from the subdivision streets.

SECTION 14: TEMPORARY STRUCTURES.

No structure of a temporary character, including trailers, mobile homes, tents or shacks shall be placed upon anywhere within the Glen Merrill subdivision at any time; provided, however, that this shall not apply to shelters used by contractors during construction. Outbuildings or partially completed buildings shall not at any time be used as residences on either a temporary or permanent basis.

SECTION 15: SETBACKS.

No building shall be located on any Lot in violation of setback requirements of the Buncombe County, Limestone zoning ordinance, other applicable zoning ordinance, or as may be shown on any recorded plats for the Glen Merrill subdivision.

SECTION 16: TRADE OR BUSINESS.

No trade or business shall be carried on upon any Lot, but this restriction shall not prohibit a home occupation, which does not cause any noxious or offensive activity within the Glen Merrill subdivision.

SECTION 17: LIVESTOCK.

No livestock or poultry may be kept on any Lot.

SECTION 18: SEWAGE.

Every Dwelling unit shall have permanent plumbing, running water and a permanent sewage disposal approved by the Buncombe County Health Department. No temporary plumbing, water or sewage systems shall be allowed on any Lot.

SECTION 19: STORAGE TANKS.

Any fuel, gas, oil, and water storage receptacles installed on any Lot shall not be exposed to view and must be placed either within the Dwelling or underground.

SECTION 20: STREETS.

The streets, roadways and rights of way shown on the plat(s) for the Glen Merrill subdivision, as currently recorded or those to be recorded in the future, are intended to provide perpetual, non-exclusive ingress, egress and regress to all the Property now identified as the Glen Merrill subdivision and any additional property added thereto as herein provided.

SECTION 21: FENCES.

The Architectural Committee must pre-approve any fencing to be placed on any Lot in writing. Pet fencing or fencing other than of a decorative nature shall be confined to rear yard of the Dwelling, as viewed from subdivision streets.

SECTION 22: PLAYGROUNDS ETC.

All playground equipment, children's toys, sports equipment, vegetable gardens, patio furniture, outdoor grilling apparatus and swimming pools shall be located only in side or rear yard of Dwelling, as viewed from subdivision streets, and any placement thereof shall be subject to the sole discretion of the Architectural Committee. Above ground swimming pools shall not be permitted.

SECTION 23: COMPLETION OF CONSTRUCTION.

Construction of any Dwelling or other improvement shall be completed within one year of its commencement. No Dwelling shall be occupied until completed. Dwellings shall be considered complete upon final inspection and approval by applicable municipal or county building inspector.

SECTION 24: GRASS AND LANDSCAPING MAINTENANCE.

Grass and weeds on all Lots shall be maintained such that the height of such vegetation does not to exceed eight (8) inches, in order to prevent an unsightly and unsanitary condition. This obligation shall apply to the area of the Lot shown on the Plat and that area within the right of way of the adjoining such Lot, which obligation is that of the Owner of the Lot in question and is to be done at his expense. Any determination of the sufficiency of any Owners compliance with this section shall be the sole discretion of the Architectural Committee. Upon the direction of the Architectural Committee, the Declarant and/or Association may enter a Lot for the purpose of mowing grass and weeds, and the cost associated with such maintenance shall be charged to the Owner as a special Assessment as provided herein.

SECTION 25: MOTORCYCLES.

Unlicensed motorcycles, minibikes, dune buggies, motorized bikes or similar recreational vehicles may not be operated within the bounds of the Glen Merrill subdivision.

SECTION 26: EASEMENTS.

Utility and drainage easements affecting all Lots are hereby reserved five feet (5') in width along interior Lot lines and over the front and rear ten feet (10') of each Lot for the installation and maintenance of utilities and drainage facilities. Neither Declarant, 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 shrubbery, trees, flowers, other landscaping, improvements or to any personal property situated on the land covered by said easements.

SECTION 27: CAROLINA POWER AND LIGHT CONTRACT.

The Declarant reserves the right to enter into a contract, on behalf of all Owners of property within the Glen Merrill subdivision, with Carolina Power and Light Company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or continuing payment to Carolina Power and Light Company by the Owner of each Lot. Furthermore, the "Masterpiece Series" street lighting to be installed shall be billed to the Association pursuant to a contract and lease agreement between the Declarant and Carolina Power and Light Company.

SECTION 28: CONSTRUCTION DAMAGE.

It shall be the obligation of the Owner of a Lot to repair any damage to guttering, paving, water lines, electric lines, or any other improvements within the Glen Merrill subdivision which occurs during the period of construction and is caused by contractors or subcontractors involved in construction on the Owners Lot. In case of any such damage to improvements, the Declarant may immediately take such action as is necessary to repair such damage; the Owner of the Lot, shall within thirty (30) days, reimburse the Declarant for the cost of any such repair which may be charged as a special Assessment. The Owner of such Lot is responsible for proper removal of any trash or debris resulting from their construction.

SECTION 29: BUNCOMBE COUNTY WATER AUTHORITY.

The Declarant and/or Association reserves the right to enter into a contract obligating the Association for usage of water for an entrance water feature, located within the Common Elements.

SECTION 30: BUILDING WITHIN FIVE YEARS.

The Owner of a Lot shall be obligated to begin construction of a Dwelling within five (5) years from the date of conveyance by the Declarant to the first purchaser thereof.

SECTION 31: ROAD MAINTENANCE.

The road maintenance provisions contained herein shall be binding upon and inure to the benefit of all successors in interest, shall be appurtenant to, and shall run with the Property bound and identified herein.

SECTION 32: MAILBOXES.

Mailboxes shall be provided and installed by the Declarant and will be billed to the owner in accordance with Article IV, Section 2.

SECTION 33: BUILDERS.

All builders shall provide a "port-a-jon" or other standard portable, self contained lavatory unit at the construction site during construction of a Dwelling. Additionally any trash or other construction debris shall be kept in a contained area (i.e. fenced area or dumpster). Each construction site shall be cleaned at a minimum of once a week so as to not be unsightly to residents, guests or potential purchasers. All construction work performed by any builders shall be subject to the time restrictions detailed in Article VI, Section 4 herein.

ARTICLE VII

OBLIGATIONS TO MORTGAGEES

The following provisions are established for the benefit of the holders of mortgages (the definition of mortgage to include deeds of trust or other security instruments) encumbering any Lots located within the Glen Merrill subdivision:

SECTION 1: The Association shall be obligated to notify the holder of any mortgage on a Lot, upon request of such holder, of any default by the Lot Owner in the performance of any such Owners obligations described herein (including failure to pay assessments as when due) which is not cured within sixty (60) days from date of such default.

SECTION 2: All actions taken under to powers of the Association, not specifically provided for herein, and any amendment of this Declaration of Restrictions must be in accordance with the provisions of the North Carolina Planned Community Act, as amended or then in effect.

SECTION 3: Written notice by the Association shall be sent, upon request, to the holder of any mortgages encumbering any of the Lots located within the Glen Merrill subdivision setting forth the purpose of the meeting not less than thirty (30) days in advance of any meeting called for the purpose of amending, extending or renewing any of the provisions of the Declaration(s), Articles of Incorporation or by-laws of the Association. No such amendment, extension or renewal shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot located within Glen Merrill unless such mortgage holder shall consent thereto in writing.

SECTION 4: Unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) and Owners (other than Declarant) of the Lots in Glen Merrill have given their prior written approval, the Association shall not be entitled to:

SECTION 5: Mortgagees of Lots, may jointly or singly, twenty (20) days after sending a notice of its intent to pay, pay taxes or other charges, which are in default and in which may or have become a charge against any of the Common Elements and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of policy, for such Common Elements and mortgagees making such payments shall be owed immediate reimbursement from the Association. Any mortgagee entitlement to such reimbursement shall forward a copy of the same to the Declarant and/or Association.

ARTICLE VIII GENERAL PROVISIONS

SECTION 1: DURATION.

The covenants and restrictions contained in this Declaration shall run with and bind the properties which are made subject hereto for a period of ten (10) years from the date this Declaration is recorded in the Office of the Register of Deeds for Buncombe County, North Carolina, after which time, such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each.

SECTION 2: AMENDMENT.

This Declaration may be amended as follows:

- (A) Prior to the conveyance of the Common Elements from the Declarant to the Association, the Declarant may make any amendments necessary in order to correct any obvious error or inconsistency in drafting, typing reproduction of this Declaration, or to issue rules or regulations which interpret, explain or make more definite and certain provisions hereof and are in furtherance of this Declaration, which amendment can be made without the joinder of Lot Owners or the Association. Declarant may not, without joinder of Lot Owners in accordance with the North Carolina Planned Community Act, make any amendment which expand or substantially alters the powers, rights and duties provided herein.
- (B) Any other Amendment or other alteration of the terms of this Declaration shall be in accordance with the provisions of the North Carolina Planned Community Act.

SECTION 3: ENFORCEMENT.

The Association, any Owner or the Declarant shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed under the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 4: SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provision in this Declaration, which shall remain in full force and effect.

SECTION 5: GOVERNING LAW

This Declaration shall be construed and controlled by and under the laws of the State of North Carolina.

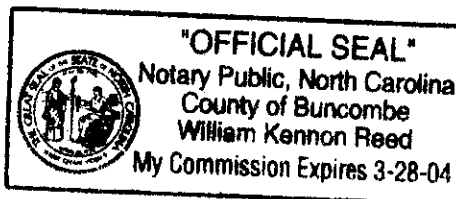
IN WITNESS WHEREOF, the Developer has hereunto set its hand and seal, as of the day and year first above written.

Developer:
Glen Noe, LLC

By:

Member/Manager

(SEAL)



SEAL-STAMP STATE OF NORTH CAROLINA, BUNCOMBE COUNTY

I, a Notary Public of the County and State aforesaid, certify that Alan Macnair, personally appeared before me this day and acknowledged that he is a Member/Manager of Glen Noe, LLC., a North Carolina limited liability corporation, and that he, as Member/Manager, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this 28 day of MARCH, 2002.

My commission expires: 3/28/2004

W. Kennon Reed Notary Public

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

The foregoing certificate(s) of William Kennon Reed

, Notary Public(s) are certified to be correct. This instrument and this certificate are duly registered at the date and time in the Book and Page shown on the first page hereof.

Otto W. DeBrull Register of Deeds for Buncombe County, North Carolina

By: Karan A. Taber, Deputy/~~Assistant~~ Register of Deeds

4

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Doc ID: 014920460004 Type: CRP
Recorded: 08/03/2004 at 01:34:26 PM
Fee Amt: \$23.00 Page 1 of 4
Workflow# 1813515
Buncombe County, NC
Otto W. DeBruhl Register of Deeds
BK 3733 PG 365-368

Prepared by and return to:
Cogburn Goosmann Brazil & Rose, P.A.
Post Office Box 7436
Asheville, NC 28802
(File No. 02-0893)

Box 81

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

AMENDMENT OF RESTRICTIVE COVENANTS
FOR GLEN MERRILL SUBDIVISION

This Amendment, entered into on the 15th day of July, 2004, by and between **Glen Merrill Homeowners Association**, an unincorporated association, hereinafter "Association", **Glen Noe, LLC.**, a North Carolina limited liability company, hereinafter "Declarant", and the Owners of Lots and Homes, hereinafter "Owners" within the Subdivision designated as "Glen Merrill" on Plat Book 82, Page 125, Plat Book 82, Page 199, and Plat Book 92, Page 36 of the Buncombe County, North Carolina Register's Office.

WITNESSETH:

THAT WHEREAS, the Glen Merrill Subdivision consists of; Twenty Three (23) residential lots, Seventeen Lots in Phase One as shown on Plat Book 82, Page 125, Plat Book 82, Page 199, and Plat Book 92, Page 36, and Six (6) "Estate" Lots in Phase Two not yet formally subdivided from the "Future Development 18.76 AC" area on said Plats; and

WHEREAS, the Glen Merrill Subdivision is subject to those Restrictive Covenants recorded in Deed Book 2757, Page 759 of the Buncombe County, North Carolina Register's Office.

WHEREAS, the Owners desire the amendment of the original Restrictive Covenants as provided herein.

NOW, THEREFORE, in consideration of valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owners of property within Glen Merrill Subdivision, by virtue of the affirmative agreement of Lot Owners, representing at least Sixty-Seven percent (67%) of the lots situated within the subdivision do hereby contract and agree as follows:

1. Article IV, Section 3(B)(3) is hereby amended such that Lots numbered 20, 21, 22, and 23 shall all be responsible for the costs of maintaining McIntyre Drive (private driveway extension) on a *pro rata* basis.

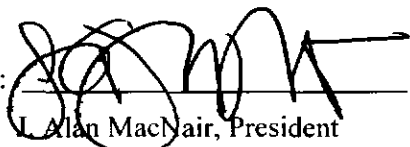
2. Article IV, Section 3(B)(2) and 3(B)(3) is hereby amended to expressly reserve unto the Developer an easement 35' in width, centered upon and running with the common boundary between Lots numbered 22 and 23 for future development at the sole discretion of the Developer. Said easement may be used for connection to adjoining properties or for the installation of utility related improvements, at the exclusive discretion of the Developer. Furthermore, it shall not be necessary for the Developer to include such easement on any plat prepared or recorded for the "Estate" Lots in Phase Two.
3. Article III is hereby amended and supplemented to add a new Section 3 to read as follows:

"Section 3: Glen Merrill Park Area. The Lot identified as "Common Area E" is hereby dedicated and conveyed to the Association for the use and enjoyment of all Lot Owners within the Glen Merrill Subdivision. The expense of maintenance, insurance and improvement of the park area shall be shared on an equal basis by all Lot Owners, regardless of actual use thereof. Only Lot Owners shall use the park area and any facilities installed thereupon."
4. Article V, Section 1, paragraph 2, sentence 3 is hereby amended to read as follows: "Plans for dwellings, structures, and any other proposed improvements shall show front, side and rear elevations and shall include the kind, material and basic exterior finishes including roofing, siding, and colors to be used in the construction of such improvements."
5. Article V, Section 2(A) is hereby amended to remove sentence 2, and to expressly permit the use of modular wall sections in the construction of improvements, provided such shall be pre-approved by the Architectural Committee.
6. Article VI, Section 32 is hereby amended to add the following: "and in accordance with Article V, Section 2(D)."

IN WITNESS WHEREOF, the Association, Developer and Owners have hereunto set their hands and seals, as of the day and year first above written.

Association:

Glen Merrill Homeowners Association

By:  (SEAL)
 J. Alan MacNair, President

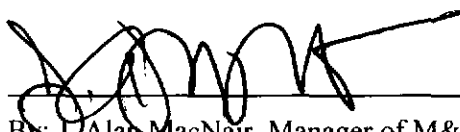
Developer:

Glen Noe, LLC.

By:  (SEAL)
 J. Alan MacNair, Manager

Owners:

Owner(s), Lot 1 & 3:

 (Seal)
 By: J. Alan MacNair, Manager of M&W G Merrill, LLC.

Owners, Lot 4:

Harry Hannah (Seal)
By: Harry Hannah, President of Blue Ridge Timber Frame, Inc.

Owners, Lot 5:

Telemachus Elwood Spencer (Seal) Debra Ann Spencer (Seal)
Telemachus Elwood Spencer and wife, Debra Ann Spencer

Developer

Owner "Future Development" (Lots 18-23)
and Lots 2, 6 - 17

Glen Noe, LLC. (Seal)
By: J. Alan MacNair, Manager

STATE OF NORTH CAROLINA
COUNTY OF Buncombe

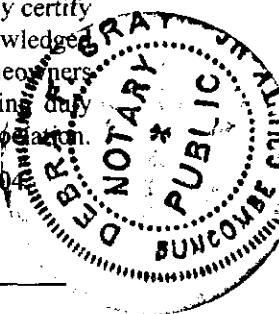
The undersigned, a Notary Public for said County and State, does hereby certify that J. Alan MacNair, personally appeared before me this day and acknowledged that he is president, and authorized officer of Glen Merrill Homeowners Association, an unincorporated association, and that as such, and being duly authorized to do so, executed the foregoing instrument on behalf of the association.

Witness my hand and official stamp or seal on 07-14, 2006

Debra J. Gray

My Commission Expires: 11-01-2006

Notary Public



STATE OF NORTH CAROLINA
COUNTY OF Buncombe

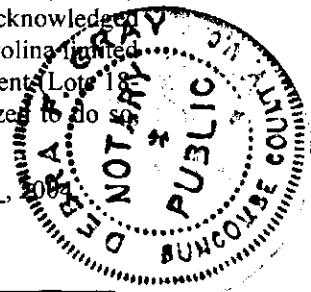
The undersigned, a Notary Public for said County and State, does hereby certify that J. Alan MacNair, personally appeared before me this day and acknowledged that he/she is an authorized officer of Glen Noe, LLC., a North Carolina limited liability company, Developer and Owner of the "Future Development (Lots 18-23)" and Lots 2, 6 -17, and that as such, and being duly authorized to do so, executed the foregoing instrument on behalf of the company.

Witness my hand and official stamp or seal on 07-14, 2006

Debra J. Gray

My Commission Expires: 11-01-2006

Notary Public



STATE OF NORTH CAROLINA

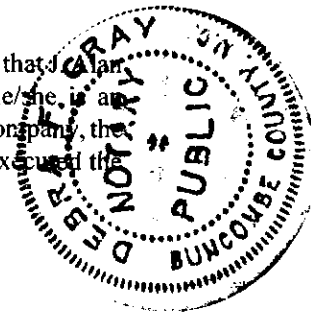
COUNTY OF Buncombe

The undersigned, a Notary Public for said County and State, does hereby certify that John MacNair personally appeared before me this day and acknowledged that he/she is an authorized officer of M&W G Merrill, LLC., a North Carolina limited liability company, the Owner of Lots 1 & 3, and that as such, and being duly authorized to do so, executed the foregoing instrument on behalf of the company..

Witness my hand and official stamp or seal on 07-14-, 2004.

Debra I Gray
Notary Public

My Commission Expires: 11-01-2006



STATE OF NORTH CAROLINA

COUNTY OF Buncombe

The undersigned, a Notary Public for said County and State, does hereby certify that Harry Hannah, personally appeared before me this day and acknowledged that he/she is an authorized officer of Blue Ridge Timber Frame, Inc., a North Carolina Corporation, the Owner of Lot 4, and that as such, and being duly authorized to do so, executed the foregoing instrument on behalf of the company.

Witness my hand and official stamp or seal on 07-14-, 2004.

Debra I Gray
Notary Public

My Commission Expires: 11-01-2006



STATE OF NORTH CAROLINA

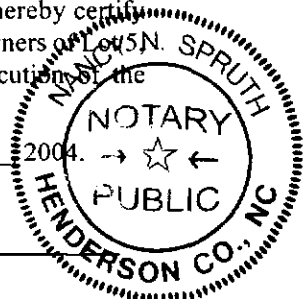
COUNTY OF Buncombe

The undersigned, a Notary Public for said County and State, does hereby certify that Telemachus Elwood Spencer and wife, Debra Ann Spencer, owners of Lot 5, personally appeared before me this day and acknowledged execution of the foregoing instrument.

Witness my hand and official stamp or seal on July 16, 2004.

Nancy N. Spruth
Notary Public

My Commission Expires: 9-28-08



STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

The foregoing certificate(s) of Debra I. Gray and Nancy N. Spruth, Notary Public(s) are certified to be correct. This instrument and this certificate are duly registered at the date and time in the Book and Page shown on the first page hereof.

Otto W. DeBruhl Register of Deeds for Buncombe County, North Carolina

By: Debra B. Rogers, Deputy/Assistant Register of Deeds



Doc ID: 031637970020 Type: CRP
Recorded: 03/08/2018 at 11:20:45 AM
Fee Amt: \$62.00 Page 1 of 20
Workflow# 0000457294-0001
Buncombe County, NC
Drew Reisinger Register of Deeds

BK 5642 PG 1751-1770

Amendment to Glen Merrill Declaration of Covenants
TYPE OF DOCUMENT

GRANTOR: Robert E. Selwyn, JR, President
Glen Merrill Homeowners Association

GRANTEE: _____

PREPARED BY: Robert E. Selwyn, JR,

MAIL TO: 103 Ben Nevis Court
Asheville, NC 28803

770-329-7956 bselwyn@midspring.com

Prepared by & return to:
Barnwell & Long, PLLC, # 5

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

AMENDMENT TO DECLARATION OF COVENANTS
FOR GLEN MERRILL SUBDIVISION

This Amendment to Declaration of Covenants for Glen Merrill Subdivision is made this 7th day of March, 2018, by Glen Merrill Homeowners' Association, Inc. (the "Association") and is to Whom It May Concern.

WHEREAS, a Declaration of Covenants for Glen Merrill Subdivision is recorded in Buncombe County Book 2757 at Page 759 (the "Original Declaration"); and

WHEREAS, in accord with the Original Declaration, the same may be modified by an affirmative vote of sixty-seven percent (67%) of the Subdivision lots, and as shown by the affirmation votes attached hereto, more than sixty-seven percent (67%) of the owners of Lots in the Subdivision did so vote, and such signing parties are the "Amenders"; and

WHEREAS, the Amenders have affirmatively voted to modify the Original Declaration, as set forth below; and

WHEREAS, the Association thus has the power to execute this document.

Now, therefore in consideration of the foregoing and for other good and valuable considerations, the Amenders do hereby amend and modify the Original Declaration as set forth hereafter:

1. The provisions hereof shall inure to the benefit of and bind the owners of all of the Subdivision, and not merely the lots affirmatively voting owners. In the event of any conflict between the provisions contained in this document and those contained in the Original Declaration, then the provisions contained in this document shall control. Except as modified herein, the Original Declaration remains unchanged and in full force and affect. All terms which are capitalized herein, but are not otherwise defined, shall have the same meanings ascribed to them in the Original Declaration. The Original Declaration, as modified hereby, constitutes the Declaration of Covenants for Glen Merrill Subdivision on the Property. The signatures of the Amenders are attached hereto (in copy format), as an exhibit.

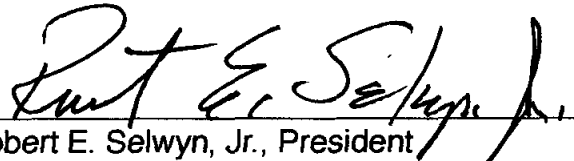
2. The following shall serve as a new Article VI, Section 16 to the Original Declaration, to wit:

2. SECTION 16: TRADE OR BUSINESS.

No trade or business shall be carried on upon any Lot, but this restriction shall not prohibit a home occupation, which does not cause any noxious or offensive activity within the Glen Merrill Subdivision. No subdivision Lot or portion thereof shall be leased, rented, or otherwise occupied, whether by or pursuant to a lease, rental agreement, occupancy arrangement, time share agreement, lease/purchase agreement, or such other similar agreement (an "Occupancy Agreement") providing for any usage of a Lot by a person other than the lot's owner or the lot owner's immediate family members (a "Non-Lot Owner"), unless the following conditions are met: (a) the Occupancy Agreement is in writing, (b) the lot shall be used solely for single-family, residential purposes by a Non-Lot Owner and such Non-Lot Owner's immediate family members, (c) the term of the Occupancy Agreement is for a period of not less than twelve (12) consecutive months, and (d) an executed copy of the Occupancy Agreement is provided to the Association no less than twenty-one (21) days in advance of the same going into effect. The foregoing conditions (including but not limited to item (d)) must be complied with each time a new Occupancy Agreement is entered into, amended and/or extended. Notwithstanding the foregoing, in no event shall a lot be used or occupied on a temporary or short-term basis including but not limited to time-shares, vacation rentals or other short term rental arrangements such as home stays, broadly defined as the practice of the owner remaining in residence while renting out rooms(s) in the home.

In the event of financial hardship a lot owner may make written request to the Board of Directors of the Glen Merrill Homeowners Association, Inc. stating the reasons for the need of renting for less than twelve months. The Board in its sole discretion shall grant or deny permission for a rental of less than twelve months duration, but in no event shall a rental be allowed for duration of less than six months. Any lot owner who enters into a rental agreement for the dwelling or residence located on their lot shall notify the Association and comply with all requirements listed in Section 16: Trade or Business of this Amendment as shown above. All tenants renting dwellings or residences in Glen Merrill shall agree to comply with the Glen Merrill Declaration. Violations of the terms of this prohibition shall be subject to fines in the amount of \$300.00 per day. The Association shall have the power to enforce this restriction, pursuant to N.C.G.S. §47-3-102."

GLEN MERRILL HOMEOWNERS ASSOCIATION, INC.


Robert E. Selwyn, Jr., President

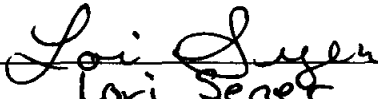
NORTH CAROLINA

BUNCOMBE COUNTY

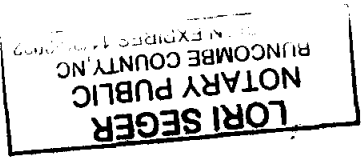
I certify that Robert E. Selwyn, Jr., appeared before me this day and acknowledged to me that he is the President of the Glen Merrill Homeowners Association, Inc., and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 7 day of March 2018.

(notarial seal)

Notary Public: 
Name of Notary: Lori Seger

My commission expires: 11/26/2022



IN WITNESS WHEREOF, Robert E. Selwyn, Jr. and Celeste G. Selwyn, Trustees of the Robert E. Selwyn, Jr. and Celeste G. Selwyn Revocable Trusts have caused the due execution of this Amendment, this day and year first about written.

Robert E. Selwyn, Jr. Revokable Trust
Celeste G. Selwyn Revocable Trust
Robert E. Selwyn, Jr.
Robert E. Selwyn, Jr., Trustee

Celeste G. Selwyn
Celeste G. Selwyn, Trustee

Owners of Lot 1, Plat Book 92 Page 36
Legal reference: Deed Book 5027, Page 1340

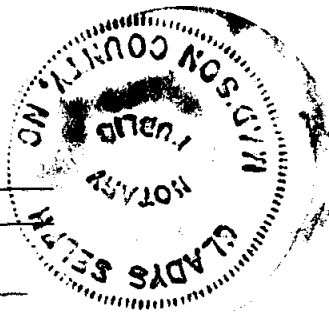
NORTH CAROLINA
Buncombe COUNTY

I certify that Robert E. Selwyn, Jr. and Celeste G. Selwyn, Trustees of the Robert E. Selwyn Revocable Trust and the Celeste G. Selwyn Revocable Trust, appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 31st day of January 2018.

(notarial seal)

Notary Public: Gladys Selph
Name of notary: Gladys Selph
My commission expires: 9-15-18



IN WITNESS WHEREOF, Michael G. Kennedy and Ann Marie Kennedy have caused the due execution of this Amendment, this day and year first about written.

Michael G. Kennedy
Michael G. Kennedy

Ann Marie Kennedy
Ann Marie Kennedy

Owners of Lot 2, Plat Book 92, Page 36
Legal reference: Deed Book 5461, Page 296

NORTH CAROLINA

Buncombe COUNTY

I certify that, Michael G. Kennedy and Ann Marie Kennedy appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 3 day of March, 2018.

(notarial seal)



Notary Public: Lori Seger
Name of notary: Lori Seger

My commission expires: 11/26/2022

IN WITNESS WHEREOF, Robert L. Haden III and Mary B. Wilder have caused the due execution of this Amendment, this day and year first about written.

Robert L. Haden III
Robert L. Haden III

Mary B. Wilder
Mary B. Wilder

Owners of Lot 3, Plat Book 92, Page 36
Legal reference: Deed Book 5530, Page 1415

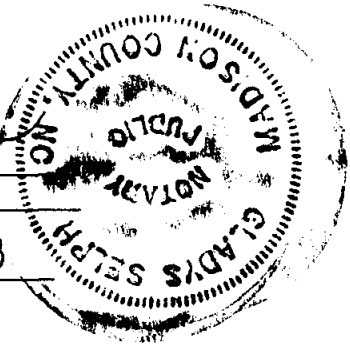
NORTH CAROLINA
Buncombe COUNTY

I certify that Robert L. Haden III and Mary B. Wilder appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 30th day of January, 2018.

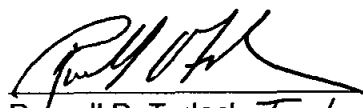
(notarial seal)

Notary Public: Gladys Selph
Name of notary: Gladys Selph
My commission expires: 9-15-18

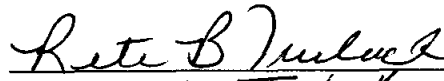


RM v
Truluck Truluck

IN WITNESS WHEREOF, Russell D. Truluck and Rita B. Truluck have caused the due execution of this Amendment, this day and year first about written.



Russell D, Truluck ~~Truluck~~ TAULUCK
RDY



Rita B. Truluck ~~Truluck~~ TRULUCK
RDY

Owners of Lot 4, Plat Book 82, Page 125, revised to Plat Book 92, Page 36
Legal reference: Deed Book 4273, Page 231

NORTH CAROLINA

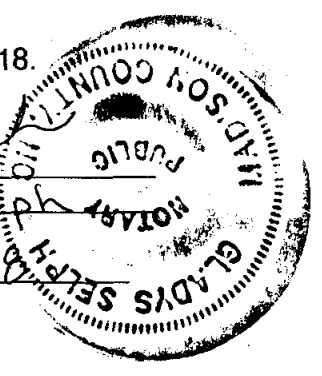
Buncombe COUNTY ~~Truluck~~ and ~~Truluck~~

I certify that Russell D. ~~Truluck~~ and Rita B. ~~Truluck~~ appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 17th day of February, 2018.

(notarial seal)

Notary Public: Gladys Seeph
Name of notary: Gladys Seeph
My commission expires: 9-18-18



IN WITNESS WHEREOF, Eric W. Neel has caused the due execution of this Amendment, this day and year first about written.

Eric W. Neel
Eric W. Neel

Owner of Lot 5, Plat Book 82, Page 125, revised to Plat Book 92, Page 36
Legal reference: Deed Book 5320, Page 510

NORTH CAROLINA

Buncombe COUNTY

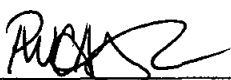
I certify that Eric W. Neel appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 16th day of February, 2018.

(notarial seal) Sarah E Hall
NOTARY PUBLIC
Buncombe County, NC
My Commission Expires February 4, 2021

Notary Public: Sarah E Hall
Name of notary: Sarah E. Hall
My commission expires: 02/04/2021

IN WITNESS WHEREOF, Peiweng Chen has caused the due execution of this Amendment, this day and year first about written.


Peiweng Chen

Owner of Lot 6, Plat Book 92, Page 36
Legal reference: Deed Book 5301, Page 1898

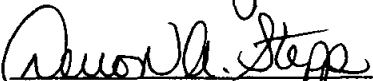
NORTH CAROLINA

Henderson COUNTY

I certify that Peiweng Chen appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 30 day of January, 2018.

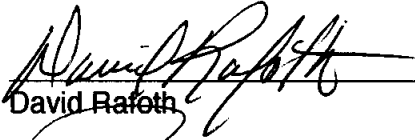
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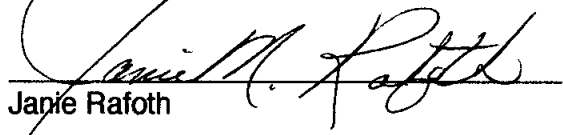
Notary Public: 
Name of notary: Devon A. Stepp

My commission expires: April 12, 2022



IN WITNESS WHEREOF, David Rafoth and Janie Rafoth have caused the due execution of this Amendment, this day and year first about written.


David Rafoth

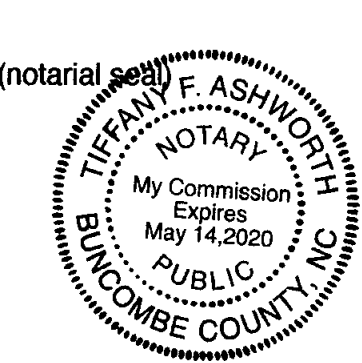

Janie Rafoth

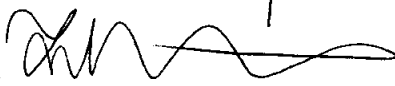
Owners of Lot 7, Plat Book 92, Page 36
Legal reference: Deed Book 5013, Page 343

NORTH CAROLINA
Buncombe COUNTY

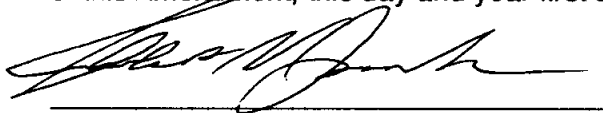
I certify that David Rafoth and Janie Rafoth appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

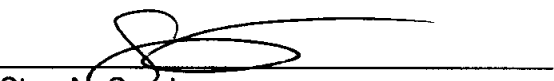
WITNESS my hand and notarial seal, this 5th day of February, 2018.



Notary Public: 
Name of notary: Tiffany Ashworth
My commission expires: May 14th 2020

IN WITNESS WHEREOF, Robert V. Sparks and Starr N. Sparks have caused the due execution of this Amendment, this day and year first about written.


Robert V. Sparks


Starr N. Sparks

Owners of Lot 9, Plat Book 100, Page 151
Legal reference: Deed Book 5488, Page 917

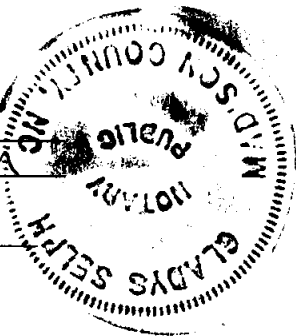
NORTH CAROLINA
Buncombe COUNTY

I certify that Robert V. Sparks and Starr N. Sparks appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 17th day of February 2018.

(notarial seal)

Notary Public: Gladys Selph
Name of notary: Gladys Selph
My commission expires: 9-15-18



IN WITNESS WHEREOF, Rolland D. Culp and R. Carol Culp have caused the due execution of this Amendment, this day and year first about written.

Rolland D. Culp
Rolland D. Culp

R. Carol Culp
R. Carol Culp

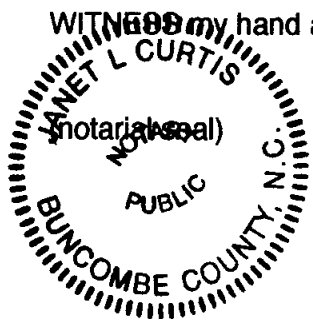
Owners of Lot 10, Plat Book 82, Page 125
Legal reference: Deed Book 3887, Page 443

NORTH CAROLINA

Buncombe COUNTY

I certify that Rolland D. Culp and R. Carol Culp appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

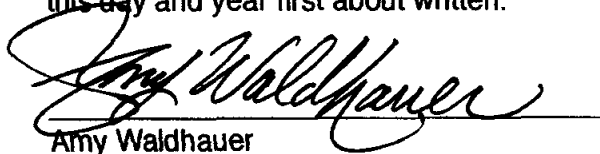
WITNESS my hand and notarial seal, this 31 day of Jan., 2018.



Notary Public: Janet L. Curtis
Name of notary: Janet L. Curtis

My commission expires: 07-04-2019

IN WITNESS WHEREOF, Amy Waldhauer has caused the due execution of this Amendment, this day and year first about written.


Amy Waldhauer

Owner of Lot 11, Plat Book 96, Page 187
Legal reference: Deed Book 5480, Page 1741

NORTH CAROLINA

Buncombe COUNTY

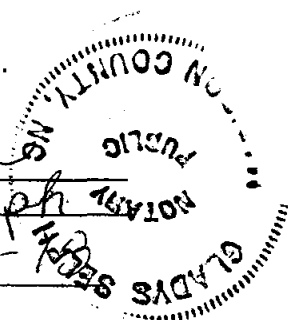
I certify that Amy Waldhauer appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 17th day of February, 2018.

(notarial seal)

Notary Public: Gladys Selph
Name of notary: Gladys Selph

My commission expires: 9-15-2023



IN WITNESS WHEREOF, Gladys Selph, as Attorney in Fact for Mary McKenzie, has caused the due execution of this Amendment, this day and year first about written.

Gladys Selph as Attorney in Fact for Mary McKenzie
Gladys Selph, as Attorney in Fact for Mary McKenzie

Owner of Lot 12, Plat Book 96, Page 187
Legal reference: Deed Book 5469, Page 215

NORTH CAROLINA

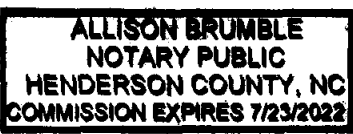
Henderson COUNTY

I certify that Gladys Selph, as Attorney in Fact for Mary McKenzie, appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 10th day of February, 2018.

(notarial seal)

Notary Public: Allison Brumble
Name of notary: Allison Brumble



My commission expires: July 23, 2022

IN WITNESS WHEREOF, James P. Bartlett has caused the due execution of this Amendment, this day and year first about written.

James P. Bartlett
James P. Bartlett

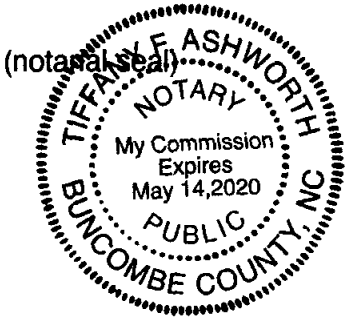
Owner of Lot 14, Plat Book 92, Page 36
Legal reference: Deed Book 4100, Page 1292

NORTH CAROLINA

Buncombe COUNTY

I certify that James Bartlett appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 26th day of January, 2018.



Notary Public: [Signature]
Name of notary: Tiffany Ashworth
My commission expires: May 14th 2020

IN WITNESS WHEREOF, Maria L. Kelokates and Jean Wright have caused the due execution of this Amendment, this day and year first about written.

Maria L. Kelokates
Maria L. Kelokates

Jean Wright
Jean Wright

Owners of Lot 15, Plat Book 82, Page 125
Legal reference: Deed Book 4030, Page 289

~~NEW JERSEY~~
~~NORTH CAROLINA~~

Monmouth COUNTY

I certify that Maria L. Kelokates and Jean Wright appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 9 day of February, 2018.

(notarial seal)

Notary Public: Sean Stewart
Name of notary: SEAN STEWART

My commission expires: 10-9-22



IN WITNESS WHEREOF, Jennie R. Grimes has caused the due execution of this Amendment, this day and year first about written.

Jennie R. Grimes
Jennie R. Grimes

Owner of Lot 17, Plat Book 92, Page 36
Legal reference: Deed Book 5446, Page 106

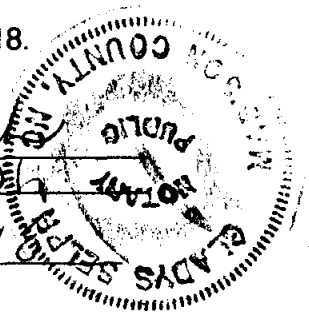
NORTH CAROLINA
Buncombe COUNTY

I certify that Jennie R. Grimes appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

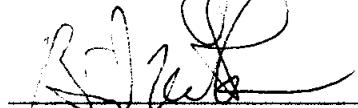
WITNESS my hand and notarial seal, this 31st day of January 2018.

(notarial seal)


Notary Public: Gladys Selph
Name of notary: Gladys Selph
My commission expires: 9-15-18



IN WITNESS WHEREOF, Bertrand M. Graham and Denise M. Graham have caused the due execution of this Amendment, this day and year first about written.

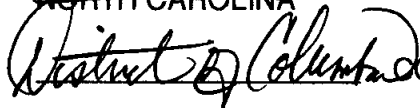


Bertrand M. Graham



Denise M. Graham

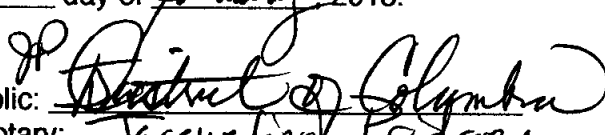
Owners of Lots 8, 19, 20, 21, 22 Plat Book 102, Page 141
Legal reference: Deed Book 5420, Page 1464

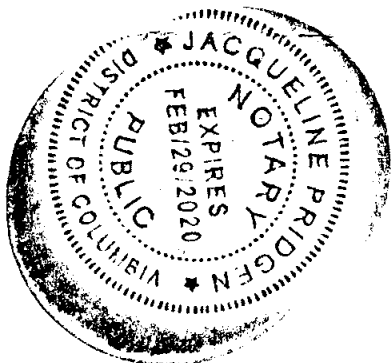
NORTH CAROLINA
 COUNTY

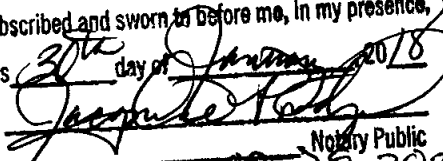
I certify that Bertrand M. Graham and Denise M. Graham appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 30th day of January, 2018.

(notarial seal)

Notary Public: 
Name of notary: Jacqueline Pridgen
My commission expires: 02-29-2020



District of Columbia
Subscribed and sworn to before me, in my presence,
this 30th day of January, 2018
by 

Notary Public
My Commission Expires: 02-29-2020

JACQUELINE PRIDGEN
Notary Public of District of Columbia
My Commission Expires February 29, 2020

IN WITNESS WHEREOF, William E. Hires, Jr., and Deborah A. Hires have caused the due execution of this Amendment, this day and year first about written.

William E. Hires, Jr.
 William E. Hires, Jr.

Deborah A. Hires
 Deborah A. Hires

Owners of Lot 23, Plat Book 100, Page 151
 Legal reference: Deed Book 4990, Page 1526

NORTH CAROLINA
Buncombe COUNTY

I certify that William E. Hires, Jr., and Deborah A. Hires appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument on behalf of the Association.

WITNESS my hand and notarial seal, this 5th day of February, 2018.

(notarial seal) Notary Public: *Tabitha Scott*
 Name of notary: Tabitha Scott



My commission expires: January 16, 2022

BK 6285 PG 1133 - 1136

Return this Instrument to:
Cannon Law, P.C.
1433 South Main Street
Waynesville, NC 28786

**THIRD AMENDMENT TO DECLARATION
OF
RESTRICTIVE COVENANTS
FOR
GLEN MERRILL SUBDIVISION**

NORTH CAROLINA,
BUNCOMBE COUNTY

THIS THIRD AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS FOR GLEN MERRILL SUBDIVISION IS MADE this 21 day of December 2022, by Glen Merrill Homeowners' Association, Inc., a North Carolina nonprofit corporation (hereinafter, "Association").

WITNESSETH:

WHEREAS, a Declaration of Restrictive Covenants for Glen Merrill Subdivision was executed by Declarant Glen Noe, LLC, and recorded April 1, 2002, in Book 2757, Page 759 Buncombe County, North Carolina Registry (hereinafter "the 2002 Declaration") subjecting certain property as shown on a plat dated January 22, 2002, recorded in Plat Book 82 at Page 125, Buncombe County, North Carolina Registry, to the covenants, conditions and restrictions contained in the 2002 Declaration; and

WHEREAS, the 2002 Declaration was amended by an Amendment of Restrictive Covenants for Glen Merrill Subdivision (hereinafter "First Amendment") recorded August 3, 2004, in Book 3733, Page 365 Buncombe County, North Carolina Registry; and

Submitted electronically by "Allen, Stahl, & Kilbourne, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Buncombe County Register of Deeds.

WHEREAS, the 2002 Declaration was further amended by an Amendment to Glen Merrill Declaration of Covenants (hereinafter, "Second Amendment") recorded March 8, 2018, in Book 5642, Page 1751 Buncombe County, North Carolina Registry; and

WHEREAS, the Glen Merrill Homeowners' Association, Inc. was incorporated as a non-profit corporation with the North Carolina Secretary of State on December 14, 2006, and is that association of lot owners responsible for and with the authority to administer the affairs of the Glen Merrill Subdivision; and

WHEREAS, Article VIII, Section 2(B) of the 2002 Declaration provides that that Declaration may be amended in accordance with Section 47F-2-117 of the North Carolina Planned Community Act, and, as such the 2002 Amendment may be amended by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven percent (67%) of the votes of the Association are allocated; and

WHEREAS, the owners of lots to which at least sixty-seven percent (67%) of the votes are allocated and subject to the 2002 Declaration, agree to adopt this Third Amendment to Restrictive Covenants for Glen Merrill.

NOW THEREFORE, the Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated agree to the following amendment to the 2002 Declaration, as the same has been subsequently amended by the First Amendment and the Second Amendment as set forth below.

1.

Article I is amended to add a new Section 11 as follows: "SECTION 11: "Improved Lot" shall mean and refer to a Lot that contains a dwelling thereon."

2.

Article II, Section 2 is amended as follows:

(a) By inserting the words "an Improved Lot" in place of the words "a Lot" immediately before "(with the exception of Declarant)" in the first sentence of subsection (A).

(b) By deleting subsections (B) and (C) and substituting therefore a new subsection (B) as follows: "(B) CLASS B: Class B Members shall be all owners of a Lot that is not an Improved Lot, each of whom shall be entitled to one-half (1/2) vote in Association affairs for each such Lot owned. When more than one person holds an interest in any such Lot, all such persons shall be Members; the vote for such Lot shall be exercised as the Owners among themselves determine, but in no event shall more than one-half (1/2) vote in Association affairs be cast with respect to any such Lot."

3.

Article IV, Section 3(B)(2) shall be deleted in its entirety and a new Section 3(B)(2) is substituted therefor as follows: Section 3(B)(2). Street Maintenance. Secondary Streets and Shared Driveways. McIntyre Drive (private extension): Lots numbered 19, 20, 21, 22, and 23 (collectively "Estate Lots"), as shown on plats recorded at Plat Book 100, Page 151, Buncombe County Registry and Plat Book 102, Page 141, Buncombe County Registry, shall be accessed by a Secondary Street known as McIntyre Drive (Private Extension), shown as a forty foot (40') wide right of way bordering Lot number 23 to the East and Lot number 18 to the West as shown on said plats. Upon the recordation of this Third Amendment, the record owner of the Estate Lots ("Estate Lots Owner") and his or her heirs, assigns or successors in interest or in title shall bear sole responsibility for the repair, upkeep and maintenance of McIntyre Drive (private extension), and fully releases the Association from any repair, upkeep or maintenance responsibility upon the recordation of a deed from the Association to the Estate Lots Owner conveying title to said McIntyre Drive (private extension). Said obligation of repair, upkeep, and maintenance of McIntyre Drive (private extension) by Estate Lots Owner shall attach to and run with the land.

4.

Article IV, Section 3(B)(3) shall be deleted in its entirety and a new Section 3(B)(3) is substituted therefor as follows: Section 3(B)(3). Street Maintenance. Secondary Streets and Shared Driveways. McIntyre Drive (private driveway extension). Estate Lots numbered 21 and 22, as shown on plats recorded at Plat Book 100, Page 151, Buncombe County Registry and Plat Book 102, Page 141, Buncombe County Registry shall be accessed by a private drive formerly known as McIntyre Drive (private driveway extension) shown as a twenty-foot (20') Drive Easement bordering Lots numbered 20 and 21 to the East and Lot numbered 23 to the West, as shown on said plats. Upon the recordation of this Third Amendment, the Estate Lots Owner, his or her heirs, assigns, successor in interest or successor in title, shall bear sole responsibility for the repair, upkeep, and maintenance of McIntyre Drive (private driveway extension), and fully releases the Association from any repair, upkeep, or maintenance responsibility. Said McIntyre Drive (private driveway extension) shall thenceforth be a private driveway providing access to Estate Lots number 21 and 22, owned in fee by the Estate Lots Owner.

5.

Article IV, Section 5 is deleted in its entirety and a new Section 5 is substituted therefor as follows: "SECTION 5: RATE OF ASSESSMENT. Annual assessments shall be fixed at a uniform rate for all Improved Lots and shall be fixed at a uniform rate for all other Lots, but such other Lots shall be assessed at a rate equal to one-half (1/2) of the rate fixed for Improved Lots.

6.

Article VI is amended to add a new Section 34 as follows: "SECTION 34: "LIMITATION OF ACCESS. No part of a Lot or any part of the Subdivision shall be used for any access to any property which lies outside of the Subdivision. No other easements, rights of ways or rights of access shall be deeded, granted, or in any way given by any Lot Owner to any other person through

or over any Lot so as to permit any portion of a Lot or subdivision property to be used for access to or from any adjoining property.

Except as amended herein, the 2002 Declaration and all subsequent amendments heretofore shall remain in full force and effect.

IT IS FURTHER AGREED that this Amendment shall be binding upon the parties, their respective heirs, successors and assigns and shall run with the titles to the lands of the undersigned and all other lands subject to the aforesaid 2002 Declaration and all amendments thereto.

IN WITNESS WHEREOF, the undersigned officers of the Glen Merrill Homeowners' Association, Inc. certify that this THIS THIRD AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS FOR GLENN MERRIL Subdivision is duly adopted by the Association and its members and in accordance with the Act and the provisions of the Declaration of Restrictive Covenants for Glen Merrill Subdivision ("2002 Declaration").

GLENN MERRILL HOMEOWNERS' ASSOCIATION, INC.

BY: Michael Kennedy, President

ATTEST: Eric Neal, Secretary

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, a Notary Public of the State and County aforesaid, do hereby certify that Eric Neal personally appeared before me this day and acknowledged that he is Secretary of the Glen Merrill Homeowners' Association, Inc., a North Carolina Nonprofit Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and official stamp or seal, this the 21 day of December 2022

Notary Public

My Commission Expires August 8, 2027

