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NORTH CAROLINA
DAVIDSON COUNTY

DECLARATION OF RESTRICTIVE COVENANTS
FOR BRUSHY CREEK
PLAT BOOK 43, PAGE 87

KNOW ALL PERSONS BY THESE PRESENTS, that Thomfield Associates, LLC, (hereinafter referred to as "Developer"), a North Carolina Limited Liability Company, does hereby covenant and agree with all persons, firms and corporations hereafter acquiring lots in Brushy Creek Subdivision as follows:

WITNESS:

WHEREAS, Developer is the owner of Brushy Creek Subdivision located in Midway Township, Davidson County, North Carolina, as shown on a plat recorded in Plat Book 43, Page 87, Davidson County Registry; and

WHEREAS, it is the desire of the Developer to establish a general plan pertaining to the enjoyment and use of the lots in Brushy Creek Subdivision for the benefit of prospective purchasers and to restrict the use of said lots in a uniform manner.

NOW, THEREFORE, in consideration of the premises and in further consideration of the purchase price to be paid by future purchasers of lots in Brushy Creek Subdivision, Developer does hereby agree, contract, covenant and declare that the lots in Brushy Creek Subdivision, Plat Book 43, Page 87, Davidson County Registry, shall be conveyed subject to the reservations, restrictions and covenants hereinafter set forth, which shall constitute covenants running with the land.

1. USE OF LOTS: No lots shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family residence and its customary accessory buildings and uses, which must be compatible. No business, profession, professional clinic or other trade activity shall be carried on upon said lots or in any building erected thereon, nor shall any building thereon be used as a rooming, boarding, fraternity house, or sorority house, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
2. SUBDIVISION OF LOTS: No residence shall be erected on less than one lot and no lot shall be subdivided except that two lot owners may subdivide a lot lying between their lots, but only one residence shall be built on the combined original and subdivided portion.
3. DWELLING SIZE RESTRICTIONS: No single-family dwelling shall be built, erected, altered or used unless it shall contain at least 1500 square feet of heated and finished floor space, to be measured from outside wall lines, for the main body of the structure, exclusive of porches, garages, terraces and basements; if the structure is a one-story dwelling. A two-story dwelling shall contain at least 2000 square feet of heated and finished floor space, measured as stated above, with a minimum of 900 square feet on the first floor. A split foyer or split level dwelling shall contain at least 3000 square feet of finished and heated floor space,

measured as stated above, with a minimum of 1500 square feet on the main level. A one and one-half (1-1/2) story dwelling shall contain at least 1100 square feet of finished and heated floor space on the first floor, with a total of at least 1600 square feet within the dwelling measured as stated above.

4. **SET BACK RESTRICTIONS:** No building or part of a building shall be built or placed nearer to the side line of any lot than 10 feet, or nearer to the back line of any lot than 35 feet. No building or part of a building other than steps, open porches, overhanging eaves or cornices, shall extend nearer to the front line of any lot than 50 feet. In the case of a corner lot, no building or part of a building, other than steps, overhanging eaves or cornices, shall extend nearer to the side line of any lot adjacent to a street than 20 feet. These setback restrictions are subject to the rules and regulations of any governmental authority having jurisdiction over residential subdivisions in Davidson County, North Carolina.
5. **GARAGES AND FOUNDATIONS:** No front entrance basement garages shall be permitted. No concrete or cement block foundation construction shall be permitted to show above the ground level of any house.
6. **DRIVEWAYS:** All driveways shall be paved with asphalt or concrete.
7. **ANIMALS:** No animals, livestock or poultry of any kind shall be raised on any lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes and provided they are not permitted to become a nuisance to the community and they are restrained by a leash when they are off the property of the owner. No barn or stable for horses or other livestock shall be erected or maintained on any part of the subdivision. Hunting and trapping of wild animals, fowl and game, and the discharge of firearms within the subdivision is prohibited.
8. **GARBAGE AND REFUSE DISPOSAL:** No lot shall be used or maintained as a dumping ground for refuse or rubbish. Trash, garbage or other waste shall be kept in sanitary containers. All receptacles and equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be screened from view from streets in the subdivision. No garbage, trash, construction debris or other unsightly or offensive materials shall be placed upon any portion of any lot, except as is temporary and incidental to the bona fide improvement of any portion of the lot.
9. **STRUCTURES:** No temporary structure of any kind shall be used on any lot at any time as a residence, either temporarily or permanently. No mobile homes, including double wide homes, or trailers of any kind shall be permitted to be placed or remain upon any lot or tract in this subdivision, either temporarily or permanently. Modular homes, or any homes constructed off site shall be prohibited. Exterior walls shall be of brick on the front and at least 2 sides. All foundations above ground level shall be of brick. No sure-wall foundations shall be permitted. All exterior walls and foundations shall be subject to approval of the Developer.
10. **EASEMENTS:** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear ten feet of each lot. Drainage flow shall not be obstructed nor be diverted from drainage or utility easements as reserved above or as shown on the recorded plat. No erosion from downspouts shall be permitted. Developer reserves the right to grant additional rights of way and easements over, under or upon any lots while owned by Developer.
11. **SIGNS:** No sign of any kind shall be displayed to the public view on any lot except one sign of not more than three square feet advertising the property for sale or for rent, or signs used by a builder to advertise the property during the construction and sales period. However, the Developer reserves the right to erect

and maintain adequate signs at the entrance to this subdivision designating its name.

12. NUISANCES: No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
13. VEHICLES: The parking on any street of boats, campers, large trucks or of unregistered, unlicensed automobiles shall not be permitted. The parking on streets or in front yards of trucks and vehicles is prohibited, with exceptions only as follows:
 - A. During the construction period of a dwelling or other permitted structure;
 - B. For immediate deliveries and pick-ups; and
 - C. Vehicles incident to immediate repairs or improvements to subject property.

No junk automobiles shall be allowed to remain on any lot or tract in this subdivision, unless kept inside of a building or garage so that it cannot be seen. A junk automobile shall be defined as any automobile in a non-running condition for thirty days or more, or which does not have current inspection stickers. All motorized vehicles operating within the subdivision must be properly muffled so as to eliminate noise which might be offensive to others. Mini bikes, ATV's and similar two or three wheeled vehicles are prohibited from being used or operated on or within the subdivision.

14. SCREENING: Satellite and/or television receiving dishes, clothes lines, exterior garbage cans, boats, campers, trailers and other recreational vehicles shall be screened from view from all streets in the subdivision.
15. ANTENNAE: No exterior radio antennae nor satellite dishes shall be permitted if visible from any street.
16. FENCING: No chain-link or other restraining type fence may be erected nearer the front property line than the rear foundation wall of the single-family dwelling thereon. In the case of a corner lot, no chain link fence or other restraining type fence may be erected nearer the side street than 40 feet. No fence of any kind shall exceed 6 feet in height.
17. STREETS: All streets in this development have been constructed as public streets, meeting the standards of the North Carolina Department of Transportation (NCDOT) for subdivision streets. The developer has dedicated a right of way having a width of at least fifty (50) feet. As of the date of the recording of the plat, the streets have been inspected by the District Engineer of the NCDOT and certified as having been planned and constructed according to the NCDOT standards, including those relating to grading, roadbed, paving and drainage.

The streets may be accepted by the NCDOT for addition to the State Highway System as state maintained roads upon petition by affected lot owners when a sufficient percentage of the lots are individually owned and when there are a sufficient number of occupied dwellings for each applicable segment of the street. Reference is made to the regulations of the NCDOT for a more complete discussion of procedures regulating the admission of streets to the state system.

Following such a petition, the streets will be reinspected by the NCDOT to insure that they continue to meet all state standards, including right of way, drainage ditches and swales.

Nothing, including, but not limited to walls, fences, gates, timbers, trees or plants, shall be erected, placed or permitted to remain in any portion of any street right of way or related sight or drainage easements as shown on the recorded plat of this development. Break-away mailboxes shall be used. No drainage ditch or swale

shall be filled, tiled or altered in any way except in accordance with the standards of the NCDOT.

18. **DEVELOPER'S RIGHT OF MODIFICATION:** The undersigned owner and developer reserves the right to cancel, modify, or change any of these restrictions by written consent, which written consent shall be duly executed, acknowledged and recorded in the Office of the Register of Deeds of Davidson County, North Carolina, and which written consent may be given or withheld within the uncontrolled and sole discretion of the undersigned owner and developer.
19. **APPLICABLE PERIOD:** The foregoing covenants, restrictions and conditions shall remain in full force and effect, unless sooner changed in accordance with paragraph 18 herein, for a term of thirty-five years from the date this Declaration is recorded, at which time these covenants, restrictions and conditions shall be automatically extended for successive periods of ten years each, unless by a vote of a majority of the then owners of the lots, it is agreed to change these covenants in whole or in part.

It is expressly understood and agreed between the undersigned owners and developers and all subsequent purchasers of the lots in the development known as Brushy Creek that all conveyances of a lot or lots in said development are made subject to these covenants, conditions and restrictions, and that they are for the protection and general welfare of the development and shall be covenants running with the land and binding upon all persons, firms and corporations purchasing lots in said development and their heirs, administrators, executors, successors, purchasers and assigns.

20. **ADDITIONAL PROVISIONS:** No captions or titles in this Declaration of Restrictive Covenants shall be considered in the interpretation of any of the provisions hereof.

In case of conflict between any of the foregoing provisions and any Zoning Ordinances (or exceptions hereto which may lawfully be made by the zoning authority) or laws which may be in effect, or which may hereafter be enacted, such Zoning Ordinances or laws shall control.

Invalidation of any of these covenants, restrictions and conditions by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

21. **ENFORCEMENT:** Enforcement of these covenants shall be by proceeding at law or in equity against any person violating or attempting to violate any covenant, either to restrain violation or to recover damages, and any person found to be in violation of these covenants shall pay all court costs, attorney fees and other expenses in connection with enforcement of these covenants.

IN WITNESS WHEREOF, the undersigned owner of the property identified herein has executed this document this 31st day of January, 2005.

THORNFIELD ASSOCIATES, LLC

By: 
John D. Faust, Member

By: 
James Frank Thomas, Member

NORTH CAROLINA
DAVIDSON COUNTY

I, the undersigned Notary Public of said County and State, do hereby certify that John D. Faust and James Frank Thomas, Members of Thornfield Associates, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this 31st day of January, 2005.

Mary R. Seithalil

Notary Public

My commission expires:

4/30/2006

