

Prepared by and after recording mail to

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(NO TITLE EXAMINATION PERFORMED)

**STATE OF NORTH CAROLINA**

**COUNTY OF WAKE**

**DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS FOR  
BARTLEY POINT AT HARRIS LAKE**

THIS DECLARATION (the "Declaration") is made on the \_\_\_ day of \_\_\_\_\_, 2023, by Princess Holdings, LLC, a North Carolina limited liability company, with a mailing address of 1430 Innovation Avenue, Morrisville, NC 27560 (hereinafter referred to as the "Declarant"):

**WITNESSETH:**

**WHEREAS**, the Declarant is the owner of the real property located in Wake County, North Carolina (as more particularly described in Article I below, the "Property" or the "Community");

**WHEREAS**, Declarant will convey all Lots (as defined below) that are part of the Property subject to certain protective covenants, conditions, restrictions, reservations, and charges as hereinafter set forth; and

**WHEREAS**, Declarant desires to provide for the preservation and enhancement of property values, amenities and conceptual intent of the Property, for the maintenance of Common Properties or Common Areas (as defined below) and improvements thereon as described herein, and accordingly desires to subject the Property, together with such additions and/or deletions as may hereafter be made, to the covenants, restrictions, easements, affirmative obligations, charges and liens as hereinafter set forth each and all which are hereby declared to be for the benefit of said Property and each and every owner of any and all parts thereof; and

**WHEREAS**, Declarant has deemed it desirable for the efficient preservation of the values and amenities of the Property to create an agency to which shall be delegated and assigned the power and authority of owning, maintaining and administering the Common Properties, administering and enforcing the covenants and restrictions governing said Common Properties, collecting and disbursing all assessments and charges necessary for such activities, and promoting the recreation, health, safety, and welfare of the residents; and

**WHEREAS**, Declarant has caused or will later cause the Association to be incorporated for the purpose of exercising the functions described above, and which are hereinafter more fully set forth.

**NOW, THEREFORE**, in consideration of the premises and covenants set forth herein, Declarant declares that the Property, and such additions and/or deletions thereto as may hereafter be made, is and shall be held, transferred, sold conveyed, leased, occupied, and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations, and liens hereinafter set forth in this Declaration (sometimes referred to herein as the "Covenants"), and the Covenants shall run with the Property and be binding on all persons claiming under and through Declarant, and the Covenants shall inure to the benefit of each owner thereof.

#### **ARTICLE I – SUBJECT PROPERTY**

The Property located in the County of Wake, State of North Carolina, and is more particularly, described as follows:

BEING all of Lot Nos. 1, 2, 3, 4, 5 and 6 as shown upon that map entitled, "Exempt Division Survey For Billy Ray Powell Sidney S Smith Ronald J. Currin John M. Hiester Edward J. Lummey, III" prepared by Benton W. Dewar and Associates Professional Land Surveyor, dated October 25, 2018 and recorded in Book of Maps 2018, Page 2400, Wake County Registry.

#### **ARTICLE II – DEFINITIONS**

As used herein:

**A. "Association"** shall mean and refer to Bartley Point Homeowners Association, Inc. a North Carolina nonprofit corporation, incorporated or to be incorporated for the care, maintenance and improvement of the roads, easements, and Common Properties or Areas, for

the enforcement of the Covenants, and to engage in such activities as may be to the mutual benefit of the Owners.

**B. “Common Areas (or) Common Properties”** shall mean all portions of the Property, including any parks and areas dedicated for the common use and enjoyment of the Owners, as shown on any recorded plat for the Property.

**C. “Dwelling”** shall mean a building designed for, or used for, human occupancy.

**D. “Environmentally unsound”** shall mean soil erosion, ungrassed land (except gardens or woodlands) and the use of chemicals or other materials that may pollute ground or surface water, the soil or plants or animal life (other than the specific pest at which it is directed).

**E. “Exceptional Maintenance”** shall mean all roadway or driveway maintenance required as a result of damage caused by heavy or tracked vehicles, especially including those that may be used in construction.

**F. “Fowl”** shall mean chickens, turkeys, pheasants, ducks, quail, geese, and/or guinea hens.

**G. “Grazing Stock”** shall mean goats and/or sheep.

**H. “Lot”** shall mean any improved or unimproved parcel of land with delineated boundary lines shown on any recorded subdivision map, or plat of the Property intended for the construction of an attached or detached single family dwelling unit, with the exception of the trail easements and the Common Areas.

**I. “Mobile Home” or “Modular Home”** means a structure intended for use as a residential dwelling consisting of one or more transportable sections built off-site and transported to the site for later assembly on-site, whether or not the structure complies with the North Carolina Building Code.

**J. “Owner”** shall mean the record owner, whether one or more persons or entities of the fee simple title to any Lot excluding those having such interest merely for the performance of an obligation.

### **ARTICLE III, LOTS AND VARIANCE OF LINES**

Each Lot shall comprise a tract of land having an area shown on the plat or plats of the Property. The lines and boundaries of the Lots shown on the aforementioned plats may not be further subdivided so as to create two Lots out of any one Lot, nor may the Owners of any Lots vary the lines and boundaries of said Lots except in accordance with the rules and regulations of appropriate Wake County governmental agencies or other governmental agencies that may have jurisdiction over the Property.

## **ARTICLE IV – BUILDING AND SETBACK REQUIREMENTS**

### **Section 1. General Requirements:**

No Dwelling, building, fence, or other structure of kind shall be erected, placed or altered on any Lot until the building plans with written specifications and exterior colors and finishes together with an approved site plan meeting the architectural requirements have been approved in writing by the Architectural Review Board as described and contemplated below.

Owners must submit two sets of plans, a site plan showing house, well, septic areas and mature tree size and location, and specifications to the Declarant or Architectural Review Board for review and approval before initiating any construction or improvement on the Property. Declarant or the Architectural Review Board shall respond within forty-five (45) days of receipt as to the approval of such plans, specifications, and colors. In the event the Declarant or Architectural Review Board does not respond within forty-five (45) days of receipt of the owner, the plans shall be deemed approved. Approval by Declarant or Architectural Review Board shall not constitute approval of any plan or specification by Wake County or North Carolina governmental authorities.

No building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling not to exceed two and one-half stories in height above the natural grade line and one attached private garage for not more than four cars, and three outbuildings as restricted herein; provided, however, that a guest house may be kept and maintained as part of a dwelling or an outbuilding constructed in accordance with this Article if said guest house is approved by Wake County and other appropriate governmental authorities. In the event a guest house is located, in an outbuilding, said outbuilding may also be used for some other permitted use as defined by Article VIII below.

### **Section 2. Minimum Home Requirements:**

One story primary residential dwelling shall have a minimum ground floor heated area of the main structure, exclusive of basements, porches, garages, and storage areas, of not less than 3,500 heated square feet; said dwellings must also have garages suitable for housing a minimum of two cars. Dwellings with more than one story of heated living area shall have a ground floor area of not less than 2,600 square feet and a total heated living area of not less than 4,000 square feet. Once construction has begun on any approved foundation, the exterior must be completed within twelve (12) months.

No Mobile Homes or Modular Homes shall be erected, altered, placed, or remain on any Lot. Log homes shall not be permitted to be erected or placed on a Lot and may not remain on any lot. However, timber frame home construction is allowed as approved by Declarant or ARB. No dwelling shall have or contain metal siding or exposed cinder block. All materials used in the exterior construction of a dwelling or outbuilding shall be new building materials unless specifically approved in writing by the Declarant or the ARB.

Accessory structures shall be permitted within the Community subject to the restrictions contained herein, and as these restrictions may be amended. Accessory structures shall not

exceed two (2) in number on any Lot. An Accessory structure may not be greater than 3,000 square feet in area, not exceed thirty (30) feet in height, and in the event more than one Accessory structure is planned or constructed, the second such structure shall not exceed 1,000 square feet in area nor fifteen (15) feet in height.

A 40-foot natural area setback shall exist on all property boundaries wherein no building or other structure may be placed, and no vehicles, boats, or trailers may be parked, no materials of any kind may be permanently kept or stored. In said setback area the trees shall not be cut or removed but shall remain for a privacy screen between the Lots, and further provide that his setback area can be cleared of the following: (a) dead, dying or diseased trees; (b) bushy vegetations, vines, poisonous plants, and similar items; and (c) any tree that is four inches or less in diameter at a four (4) foot height. In addition, the following are allowed in said natural area setback: (a) activities required for the installation and maintenance of septic systems and wells; (b) selected clearing of trees and/or construction of improvements within the easements noted on the recorded plat as may be agreed upon by the Association; (c) driveways and utility lines which may cross said natural area but may not run parallel to a boundary line inside the natural area except as approved in writing by the Declarant or the ARB. The removal of trees within the natural area setback for the allowed activities must be kept at the minimum necessary to complete the activity. No building located on any Lot shall be nearer than one hundred (100) feet to the edge of any Community road right of way or state road right of way. No dwelling may be located on any Lot closer than fifty (50) feet to any other boundary line. No outbuilding may be located on any Lot closer than fifty (50) feet to any rear or side boundary line. If requested in writing, Declarant and ARB may grant a front yard set-back variance not to exceed twenty-five percent (25%) of the required setback.

In the event an Owner builds a dwelling on two adjacent lots, the multiple Lots shall be considered as one for the purposes of setback measurements. The Owner must combine the lots to become one Lot as per Wake County requirements. Furthermore, the Owner is required to pay the Association dues for both Lots ongoing and the Lots may not be re-subdivided in the future.

Several Lots may require above ground septic disposal state approved drip systems. There shall be a variance in the setback for above ground septic drip disposal systems and other county septic systems for said Lots such that no residential dwelling on any of said Lots shall be located closer than County and State requirements for said aboveground disposal systems. Construction of any building with one hundred (100) feet of such a septic disposal system shall constitute a waiver of any rights of or claims, at law or in equity, against any Owner, the ARB or the Declarant; and acceptance of any building or parcel of land in violation of said one hundred (100) feet setback shall constitute a waiver of any rights or claims, at law or in equity, against any property owner, the ARB or the Declarant.

### **Section 3. Architectural Review Board.**

The "Architectural Review Board" or "ARB", shall consist of three (3) persons to be appointed by or before the first sale and transfer of title of a Lot by the Declarant. The Declarant shall have the right to appoint a majority of the members of the Architectural Review Board until

all new or initial construction of all homes on all Lots is completed. After the time when all said new or initial construction of all homes on all Lots in the Property is completed, the Architectural Review Board shall be appointed by the Board of Directors of the Association.

In addition, the Declarant shall the right but not the obligation to appoint an Architectural Advisory Committee, a majority of which advisory committee shall be comprised of Owners in the Community, which shall advise the Architectural Review Board on all changes, modifications, or additions to the initial construction of all homes which are proposed to be done by any homeowner. **These covenants require any, and all Owners to begin home construction not later than three (3) years from the date such Owner acquired its Lot and subject to all other provisions contained in Article IV pertaining to penalties regarding commencement of home construction.** However, the Architectural Review Board shall have the final authority on all architectural decisions. At such time as the Architectural Review Board is appointed by the Board of Directors of the Association rather than by the Declarant, and Architectural Advisory Committee which then exists shall cease to exist and thereafter all architectural advisories, recommendations and/or decisions shall be made by the Architectural Review Board.

#### **Section 4. Failure to commence construction provision.**

In the event an Owner has not submitted an acceptable house and site plan design within the allotted 3-year period, the Declarant and/or the Association may institute a monthly non-performance penalty of \$3,000 due and payable to the Association for non-compliance of the mandatory building provision herein stated. In the event the penalty is not paid it shall become a lien on the Owner's Lot and the Association may enforce the provisions under the Statutes of North Carolina with any and all rights accordingly including the sale of the Lot if necessary. Any future Owner must meet the mandatory construction provision of these Covenants and must commence construction within ninety (90) days of closing its acquisition of such Lot.

#### **Section 5. Plan or Design Approval.**

No site preparation or initial construction, erection, or installation of any improvements, including, but not limited to houses, outbuildings, fences, walls, signs, antennas, and other structures, excavation, or changes in grade shall be undertaken upon any Lot unless the house plans and site plans and specifications therefore, showing the nature, kind, shape, height, materials, and location of the proposed improvements shall have been submitted to the Architectural Review Board and expressly approved in writing. No subsequent alteration or modification of any existing improvements or construction, erection or installation of additional improvements may be undertaken or allowed to remain on any of the Lots without the review and express written approval of the ARB or the Declarant.

#### **Section 6. Effect of Failure to Approve or Disapprove.**

In the event that the Architectural Review Board fails to approve or disapprove the design of any proposed improvements within forty-five (45) days after plans and specifications therefore have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully satisfied, provided that the plans and specifications required to be submitted shall not be deemed to have been received by the Architectural Review Board if

they contain erroneous data or fail to present adequate information upon which the Architectural Review Board can arrive at a decision.

**Section 7. Rights of Inspection.**

The Architectural Review Board or its designee shall have all right, at its election to enter upon any of the Lots during preparation, construction, erection, or installation of any improvements to determine that such work is being performed in conformity with the approved plans and specifications.

**ARTICLE V – LANDSCAPING REQUIREMENTS**

**Section 1. Driveway Entrance.**

The plans and specifications submitted to the Declarant or the ARB for each Dwelling shall include a driveway entrance landscape plan. All private driveways require a minimum width of twelve feet (12') exit from any of the Community's private interior roads to individual homes. Said plan must include entrance columns of brick, stone or stucco to conform to the house design. The minimum column size shall be 24" x 24" x 50" with affixed lighting together with the driveway entry landscape plan which shall have a minimum value of \$20,000 inclusive of the columns.

**Section 2. House Landscape plan and Exterior lighting plan.**

The plans and specifications submitted to the Declarant or the ARB for each Dwelling shall include a landscape and lighting plan for the area around the house with a minimum value of \$25,000. All landscaping must be completed prior to owner occupancy. In the event the weather conditions do not allow the completion of the landscaping prior to move-in the owner will post the funds with the ARB together with a copy of the landscape plan and contract. The owner shall then have ninety (90) days to have the work completed. In the event the work is not completed by the extended completion date the ARB may have the work completed and paid for from the funds held in trust for the work.

**ARTICLE VI-RESTRICTED BUILDERS**

All Owners have been made aware of, acknowledge, and accept the Declarant's right to limit the approved builders in the Community to those builders approved by the Declarant. The Declarant shall furnish the list of approved builders to each Owner prior to the closing of any lot purchase. The Declarant shall maintain a list of not less than four (4) builders from which the Owner may select to construct their home. In the event the Owner has not started construction of the home within three (3) years from the date the Lot was transferred by Declarant, the Owner may be subject to fines of \$3,000 per month until approved construction commences with approved county building permit. The Declarant together with the ARB retain the exclusive right to approve or reject a builder in order to maintain and protect property values within The Community. Each Owner shall cause any builder on its Lot to pay a fee of five percent (5%) of the gross building costs and construction contract to the sales and marketing company for the Community, which is The Real Estate Company as of the date hereof and is subject to change by Declarant. This preferred builder provision runs with the land and therefore must be disclosed by any seller after closing to any purchaser who should purchase their re-sale homesite.

## **ARTICLE VII-NO NOXIOUS OR OFFENSIVE ACTIVITY**

No noxious, offensive, or environmentally unsound activity, condition or trade shall be carried on or permitted upon any Lots, nor shall anything be done thereon which may be or become an annoyance or nuisance to the Community. No plants or animals, or device or thing of any sort whose normal activity of existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood shall be permitted. Four-wheel all-terrain vehicles are not permitted to be operated on the Property, except that any Owner may operate such vehicles within its Lot during daylight hours. No trade materials or inventories may be stored upon the Lots unless said materials are kept in an allowed building or structure, and no inoperable automobiles may be stored or regularly parked on the Lots unless completely enclosed in an allowed building. No sign or billboard shall be placed, erected or maintained on any Lot, excepting "For Sale" signs of not more than five (5) square feet in area.

No hunting or discharge of weapons is allowed on any Lot or other land which is a part of the Property. No target practicing with firearms is allowed on any Lot or other land which is part of the Property. Boats and recreational vehicles must be stored inside an allowed outbuilding. No yard lights shall be allowed to shine directly into adjoining Lots and any such lights must be placed at least fifty (50) feet from any boundary line. Decorative lamp posts of low intensity lighting not exceeding eight (8) feet will be allowed at the entrances to the home and sidewalks.

## **ARTICLE VIII – USES**

All lots shall be used only for single family residential purposes or such other permitted uses as is specifically permitted by Article IX. No Lot shall be used for business, manufacturing, or commercial purposes, except as specifically permitted herein.

Except as specifically permitted herein, no dwelling or outbuilding may be used as a public church, fraternity house, rooming house, boarding house, motel, office or retail space for lease, doctor office or any medical related businesses. Subject to the provision of Article IX below, a professional office, including but not limited to, the business of law, real estate, accounting, computer related services or other similar in-house businesses are allowed, provided that at least one resident family member is a partner or principal owner of the business and further provided that said activity shall not cause excessive traffic within the Community. Agricultural related businesses, as permitted in Article IX below, poultry houses, zoos, pet grooming businesses, landscaping companies, wholesale, or retail plant nurseries, are not allowed.

## **ARTICLE IX – OTHER PERMITTED USES**

An Owner that develops a Lot for single family residence on its Lot in accordance with the requirements herein may use its Lot for one or more of the following purposes incidental to such for single family residential purpose:

- a. To cultivate and harvest crops as provided by Article X below.
- b. To keep and maintain fowl as provided by Article XI below.



c. To carry on any business upon a Lot provided. (1) said Lot is also used for residential purposes by the owners of said Lot; (2) only immediate family members and one non-family member is involved or employed by said business; (3) said business is not illegal; (4) business shall not create constant or frequent daily traffic resulting from customer sales or transport of inventory or trade materials; (5) no signs are located upon the Lot regarding the business; (6) such business is located and maintained solely within the residential dwelling of the owner or an allowed outbuilding; (7) no activity involving the business creates noise, smoke, odor, or unsightly condition or other noxious condition offensive to any other Owner exercising reasonable judgement relative thereto; and (8) that the primary function of the business is passive in nature and would blend in with a residential environment. Examples of businesses that do not meet this provision are junk yards, grading companies, heavy equipment servicing, trucking companies, construction companies utilizing the Lot as their sole office, or any business primarily dealing in retail and over the counter sales.

d. Any other provision of this Declaration to the contrary notwithstanding, written approval of the proposed business must be received from the Declarant or the Association Board of Directors, stating that the business is in keeping with the intent of these Covenants, prior to commencement of operations of the business on the Lot.

#### **ARTICLE X - CROPS**

An Owner may plant, cultivate and harvest crops upon its Lot provided, said crops are planted and cultivated solely for use and consumption by the Owner's household, or by animals lawfully kept and maintained on said Lot by the Owner thereof in accordance with the terms hereof.

#### **ARTICLE XI - PERMITTED ANIMALS**

Fowl may be kept and maintained on a Lot; provided: (1) the total number of all fowl shall not exceed ten; (2) the Fowl shall be kept solely for personal use and consumption and not for business or commercial purposes; and (3) all Fowl shall be kept in a pen or other containment area. Such pens or containment areas shall be within an approved outbuilding and not visible from the street or any adjacent Lot(s).

The keeping of any of the following animals is prohibited: (1) swine; (2) ostriches; (3) emus; (4) peacocks; (5) any wild or exotic animal; (6) horses or Grazing Stock; (7) any other animal which by its nature or disposition is dangerous to the residents of the Community.

#### **ARTICLE XII - PETS**

Dogs, cats and other household pets may be kept and maintained upon a Lot; provided that; (1) no Owner may keep and maintain a dog or cat kennel, veterinarian office, pet grooming business, or zoo; (2) said pets are kept under proper supervision and control so as not to cause or create a nuisance or menace to owners and occupants of other Lots; and (3) said pets are kept on the Lot of its owner and not allowed to go upon the Lots of others or run free and unrestricted through the Community. No more than four (4) total dogs or cats, excluding the offspring of such animals that are less than four (4) months old, may be kept or maintained on any Lot.

**ARTICLE XIII – NO TEMPORARY STRUCTURES**

No structure of a temporary nature, mobile homes, trailers, campers, vans, basements, tent shacks, temporary garages, temporary barns, or other similar outbuildings shall be erected, placed, used or permitted on any Lot for any purpose.

**ARTICLE XIV – GARBAGE, REFUSE AND DEBRIS**

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy or unsightly conditions of buildings or grounds on the lots. All Lots shall be kept clean and free of garbage, junk, trash, debris and any substance that might contribute to a health hazard or to the breeding and inhabitation by snakes, rats, insects or other pests and vermin. Each Owner shall provide privacy enclosures for garbage receptacles in an area not generally visible from adjacent Lots or provide underground garbage receptacles or similar facilities in accordance with reasonable standards, and all trash shall be disposed of in a timely manner by a garbage service or by the Owner at least once each week.

The Association shall have any home site cleaned to meet these requirements if the Owner fails to do so and may bill the Owner for said work. Should the bill not be paid within thirty days, it shall become a lien on the Owner’s Lot and the Association may enforce the provisions under the Statutes of North Carolina with any and all rights accordingly including the sale of the Lot if necessary.

**ARTICLE XV – STORAGE TANKS**

No fuel tanks or similar storage receptacles may be exposed to view. Such devices must be installed within an authorized outbuilding, buried underground, or must be screened from view from adjoining Lots by wooden privacy fencing fully concealing the tank from view. Each Owner shall also comply with all other applicable laws, rules and regulations governing the use and storage of such tanks.

**ARTICLE XVI – WATER AND SEWAGE SYSTEMS, WELL EASEMENT**

All well and sewage systems shall be in conformity within the requirements of either the Wake County Health Department or the State of North Carolina and shall be inspected and approved by the same.

**ARTICLE XVII – FENCING**

All fencing must be approved by the ARB. No barbed wire fencing shall be permitted on any Lot. Permanent fencing must consist of at least three board or three-rail fencing. Permanent wood fencing will be allowed to be placed within the setback areas no closer than one (1) foot to any boundary line, except where adjoining Owners agree to build a joint fence on the property line. No cyclone or other mesh wire fencing will be allowed without it being framed in wood and must be approved by the ARB except as may be required by the health department for septic areas. All fencing installed must be kept in good repair so as to maintain a neat appearance.

## **ARTICLE XVIII – ROAD RESPONSIBILITIES**

Community roads are private roads built to county specifications with 8” of gravel and 2” of asphalt and will be maintained by the Association. The Association agrees to assume responsibility for the maintenance of the roads upon completion of the roads and once ninety percent (90%) of the Lots have been sold by Declarant. Each Owner who constructs a home will hold their builder responsible for any road damage which is caused by subcontractors shall during construction of any home. The Owner’s builder must sign a responsibility form for any damage by him or his suppliers or subcontractor to the roads. The builder as part of the submittal package to the ARB shall post a \$10,000 refundable deposit with the Association (see builder submission form in the ARB application package)

## **ARTICLE XIX – SEPTIC MAINTENANCE**

Each Owner agrees to maintain their septic field in accordance with State and Wake County requirements. The buyer is aware that while the seller has obtained a septic permit from the County or State as per regulations it is the buyer’s responsibility to maintain said permit. Once home construction is complete the owner is responsible to maintain the septic system according to the State or County code. This provision provides that all septic fields and septic systems shall be maintained in a manner acceptable to the State and /or Wake County authorities based on the type of system installed.

## **ARTICLE XX – BARTLEY POINT HOMEOWNERS ASSOCIATION**

### **Section 1. Formation**

Declarant shall incorporate the Association with the duties and powers as set forth in this Declaration. Declarant shall maintain control of the Association until such times as it is turned over to the control of the Owners. The Declarant or Association may designate another person or organization to manage the Association and authorize the designated manager to receive compensation for services from the Association, not to exceed seven percent (7%) of the money collected as dues, fees, etc. The designated manager shall provide a yearly financial report of income and expenses to the Association. The Association may elect to self-manage if approved by a vote of not less than seventy-five percent (75%) of eligible votes per Section 2 below.

### **Section 2. Member classes and Voting Rights**

**Class A Members.** Class A Members shall be all those Owners with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the required ownership interest. When more than one person or entity holds such interest in any Lot all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot and no fractional vote may be cast with respect to any Lot.

**Class B Member.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to nine (9) votes for each Lot in which it holds the required ownership interest, provided that the Class B membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs first (and unless the Declarant, in

is sole but reasonable discretion and by written notice recorded in the Wake County Registry, decides to transition to the Association to control by the Class B Members effective as of a date earlier than specified below:

a. The total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; provided that the Class B membership shall be reinstated with all rights, privileges, responsibilities and voting power if, after conversion of the Class B membership to Class A, additional lands are annexed to the Property, all within the times and as provided in these Covenants; or

b. December 31, 2025.

### **Section 3. Duties and Powers**

The Association shall have the duty to be responsible for the maintenance and the improvements of all Common Areas, including parks and trails that are jointly owned or used by members of the Association. The Association shall also have the responsibility for maintaining the entrance signs and landscaping and any other common items such as fencing put in by the Declarant of the Association, street signs, and decorative streetlights. The Association will also pay for the utility bills for the streetlights that are installed by the Declarant or the Association.

The Association shall also hold, administer, maintain, care for and control the use and enjoyment of roads, including road rights-of-way, for the purpose of acting in the common interest of the Owners, and for the benefit of the Community and to alleviate such Community problems as may arise from time to time.

The Association shall have the authority and affirmative duty to act on behalf of its members in enforcing compliance with these Covenants. It may do so in all lawfully appropriate ways including all forms of court proceedings. The Association shall also have the power to contract for and expend money for road maintenance (as provided herein) for any member when the member has failed to abide by these Covenants and may then assess the individual member for such expenses. The Association may delegate construction and maintenance of the roads and common areas and carry-on activities of common interest on behalf of the Association.

### **Section 4: Assessments**

Owners shall be subject to an annual assessment by the Association, its successors or assigns, for the care, maintenance, and improvement, including the payment of ad valorem taxes and other assessments by governmental bodies or agencies of the Common Area. The assessment initially shall be \$3,000 per year, of which \$1,000 shall be set aside for future road improvements and may be increased thereafter as provided for below. Such assessment shall be used exclusively for the care, maintenance, and improvement of the Common Areas, the payment of taxes, the payment of utility bills for the street lights, the maintenance and improvements of any parks, the maintenance and improvements of all roads on the Property, the maintenance and improvements of entrance signs and landscaping, the payment of Association insurance premiums, attorney's and accountant's fees for Association business, enforcement actions by the Association to enforce these covenants, other common and

necessary expenses of the neighborhood, and other such items as may be voted on by a majority of the members of the Association. A majority vote of seventy-five percent (75%) of the members is required prior to any increase in the annual assessments.

A special assessment may be made against any Owner for cleanup cost or other costs related to the exceptional road maintenance in connection with any construction activity on said Owner's Lot, for the removal of refuse, debris and garbage generally visible from the public and private roads serving the Property or which may be visible from adjoining Lot(s), and which costs are incurred by the Association as a result of the failure of the Owner to abide by these Covenants, or other lawful and binding actions of the Association. A special assessment may also be made against Owners for ordinary road maintenance expenses, which exceed revenues available with the respective road funds. In every case, the Association may assess its costs and expenses of enforcement of these Covenants, including its attorneys' fees.

Any major improvements not necessary for the maintenance, beautification, and use of the roads, common areas, park and entrance signs and landscaping must be approved by Owners of Lots to which at least seventy-five percent (75%) of the votes in the Association are allocated.

Special assessments shall be due and payable fifteen (15) days after being invoiced by the Association or Declarant, as the case may be. Annual assessments for each calendar shall be invoiced on or before January 1<sup>st</sup> of said year by the Association or the Declarant, as the case may be, and shall be payable by January 15<sup>th</sup> of said year. At the first conveyance of a Lot by the Declarant to the initial Owner of said Lot, said Owner will pay at the closing a pro-rated amount of the first year's annual assessment to the Declarant for the purpose of establishing the Association's annual assessment account. Any future conveyance of Lots may not take place without the then current year's annual or special assessments being paid in full by the Owner of the Lot being conveyed.

The Association, its successors or assigns, shall, upon demand, furnish a certificate in writing, signed by an office of the Association, stating whether the assessments on a specified Lot have been paid or any amount due thereon. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Any assessment, which is not paid when due, shall be delinquent. If the assessment is not paid within thirty days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring action at law against the Owner personally obligated to pay the same. In every case, the Association may assess its cost and expenses of enforcement of these Covenants, including its attorneys' fees. No Owner may waive or otherwise escape liability for the assessment provided for herein by the non-use of the road or the abandonment of his Lot.

The above annual assessments or any properly approved special assessments, together with such interest thereon and collection costs thereof shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. In addition, each such assessment together with interest, costs, and attorney's fees, shall be the personal

obligation of the person owning the Lot at the time of the assessment, and shall be a lien on the Lot.

The lien for the assessments provided for herein shall be subordinate to the liens of any first and second mortgage or deed of trust. Sale or transfer of any Lot which is subject to any mortgage or deed of trust pursuant to a decree of foreclosure thereof shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No conveyance or transfer shall release such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

The following properties shall be exempt from the assessments created herein.

- (1) All properties dedicated and accepted by a local public authority;
- (2) The Common Areas; and
- (3) The Lots owned by Declarant.

In addition, the Declarant, in its sole discretion, may exempt a sold Lot from assessment during the time of construction of the principal Dwelling on said Lot, up to a maximum of one (1) year. Concurrent to the Declarant turning the community over to the control of the Association the Declarant will deposit the sum of \$25,000 into the Association account for interim maintenance until the first-year annual dues have been billed and collected.

#### **Section 5: Notice and Quorum**

For any action required of the members of the Association, written notice shall be given to all members not less than thirty or more than sixty days in advance of the meeting. A quorum shall be required for the membership to take action. A quorum shall constitute the presence of Owners of Lots to which at least fifty percent (50%) of the votes in the Association are allocated. For the initial meeting to elect directors and officers, those members present shall constitute a quorum.

#### **Section 6: Right of Declarant to Representation on Board of Directors of the Association**

Notwithstanding anything contained herein to the contrary, until the earlier of December 31, 2025, or until the Declarant shall have conveyed ninety percent (90%) of the Lots, the Declarant (or its express assignee of the rights granted in this Section) shall have the right to designate and select a majority of the Board of Directors of the Association. Whenever the Declarant shall be entitled to designate and select any person(s) to serve on any Board of Directors, the manner in which such person(s) shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association. The Declarant shall have the right to remove any person(s) selected by it to act and serve on said Board of Directors and to replace such person(s) with another person or other persons to act and serve in the place of any Director(s) so removed. Any Director designated and selected by the Declarant need not be an Owner. Any representative of the Declarant serving on the Board of Directors of the Association shall not be required to disqualify himself from any vote upon any contract or matter between the Declarant and the Association where the Declarant may have a pecuniary or other interest. Similarly, the Declarant, as a member of the Association, shall not be required to disqualify itself

upon any vote upon or entry into any contract or matter between the Declarant and the Association where the Declarant may have a pecuniary or other interest.

#### **ARTICLE XXI – NOTICE**

Any notice permitted or required to be sent to an Owner under the provisions of these Covenants shall be deemed to have been properly sent when mailed by first class mail, postage prepaid, to that person's last known address as it appears on the official records of the tax collector of Wake County. Notice to any one of two or more co-Owners of a Lot shall constitute notice to all co-Owners.

#### **ARTICLE XXII – DURATION AMENDMENT**

These Covenants may be amended by a written instrument signed by the Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, or as provided hereinabove. Provided, however, that the Declarant and/or the Association may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction or to approve any amendment required by VA, HUD or the Federal National Mortgage Association, without action or consent of the Owners, and such amendment shall be certified as an official act of the Board and the Association and recorded in the Wake County Registry.

The Declarant, for so long as it shall retain control of the Board of Directors of the Association, and thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and with the prior or subsequent consent and approval of VA or HUD (as may be deemed necessary and/or desirable by Declarant) and without the consent of any Owner, in order to qualify the Association or the Community, or any portion thereof, for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Wake County Registry.

The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by Declarant, the Association or the Owners, their respective legal representatives, heirs, successors, and assigns. This Declaration may be terminated only by the affirmative vote or written consent of the Owners of Lots to which at least seventy-five percent (75%) of the votes in the Association are allocated and the affirmative vote or written consent of the Declarant.

#### **ARTICLE XXIII – ENFORCEMENT**

If any Owners or their heirs, successors or assigns, shall violate or attempt to violate any of these Covenants, it shall be lawful for the Association to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate such Covenants, and either to prevent said person(s) from so doing or recover damages or other moneys for such violation. If the Association refuses to act for any reason, any other Owner may prosecute a violation of these Covenants.

## **ARTICLE XXIV – SPECIAL DECLARANT AND/OR DEVELOPMENT RIGHTS**

Declarant hereby retains and reserves the following (collectively and individually, “Special Declarant Rights” or “Development Rights “):

(A) Rights to have on-site promotional sale signs until Declarant’s last Lot is sold. This includes an information box, as well as a site plan of the Property. The location for all such promotional information shall be selected by the Declarant at its sole discretion.

(B) Rights to add or annex additional land to the Property and legal authority or ability, but not any such obligation, to submit said additional land to these Covenants, which it shall do by recording an amendment to these Covenants for said purpose. In addition, without any approval by any other Owners or by the Association the Declarant reserves the right to amend these Covenants to add, delete, or modify any terms or provisions of these Covenants for any such newly annexed Property so long as such modified covenants generally are consistent with the stated purpose of these Covenants.

(C) Rights to subject the Property to an easement to Duke Progress Energy Company for the installation of underground power lines, street lighting, or any other decorative or landscaping lighting on any Common Areas or Properties in the Community, which may require a continuing monthly payment to Duke Progress Energy, or its successors or assigns, by each residential customer/Owner and/or by the Association.

(D) Rights to subject the Property to easements to appropriate utility providers for the installation of phone lines, water lines, and fiber on any Common Areas or Properties in the Community.

(E) Rights to subject the Property to easements necessary for stormwater or sewer service.

(F) Rights to assign and transfer its rights, powers, duties and obligations under these Covenants to any successor firm or organization provided said assignee assumes all of the obligation of the Declarant hereunder, and provided that any such assignment or “Transfer of Special Declarant Rights” shall be accomplished in accordance with the provision of the North Carolina Planned Community Act, Chapter 47F, of the North Carolina General Statutes (the “Act”) (and specifically Section 47F-3-104 as it now exists or is hereafter amended).

(G) Rights to exercise, retain, transfer and/or assign (i) all “Development Rights” as defined and applied in the said Act (specifically Section 47F-1-103 (11) as it now exists or is hereafter amended); and/or (ii) all “Special Declarant Rights” as defined and applied in the Act (specifically Section 47F-1-103 (28), as it now exists or is hereafter amended).

(H) All rights to amend these Covenants and/or to re-subdivide, reconfigure and/or modify any Lots in the Community still owned by the Declarant, or its duly authorized affiliates or assignees, as contemplated and authorized by the Act (specifically Section 47F-2-117, as it now



exists or is hereafter amended) so long as any such amendment, reconfiguration or modification of these Covenants or the Lots are done during a period of time in which total votes outstanding in the said Class A membership equal the total votes outstanding in the Class B membership (as contemplated in Section 2 of Article XXII herein).

(l) An easement is hereby granted in the interior road easement for telephone and fiber optic lines for installation of said utilities as they become available for installation in the Community.

#### **ARTICLE XXV – INVALIDATION**

Should any Covenants or restrictions herein contained, or any sentence, clause, phrase, or term of these Covenants be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect. In addition, if there is a contradiction between these restrictions and any governmental ordinances, laws or regulations of a Federal, State, or Local Agency

#### **ARTICLE XXVI – PLANNED COMMUNITY ACT**

These Covenants and the Property shall be subject to the provisions of the North Carolina Planned Community Act, Chapter 47F of the Act. In the event of any inconsistency between these Covenants and the Act, then the provisions of the Act shall prevail as to such inconsistent provision(s) only, and the remaining provisions of these Covenants shall remain in full force and effect.

**(SIGNATURES FOLLOW ON NEXT PAGE)**

**IN WITNESS THEREOF**, the Declarant has caused this document to be executed in its name on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

DECLARANT  
PRINCESS HOLDINGS, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for Wake County, North Carolina, do hereby certify that \_\_\_\_\_ personally appeared before me and acknowledge that he is the Manager of Princess Holdings, LLC, a North Carolina limited liability company and that he, as Manager, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp/seal \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_