

PREPARED BY:
Joseph M. Collins
COLLINS & HENSLEY, P.A.
217 Iotla Street
Franklin, N.C. 28734

NORTH CAROLINA
MACON COUNTY

Parcel #10-47402

DECLARATION OF RESTRICTIVE COVENANTS
FOR
SEQUOYAH

THIS DECLARATION, made and entered into this the ____ day of _____, 2006, by TCS Management, LLC, a North Carolina limited liability company, hereinafter referred to as the “Declarant”;

WITNESSETH:

WHEREAS, Declarant is the owner of certain property located in Burningtown Township, Franklin, Macon County, North Carolina, said property being known as Sequoyah Subdivision, hereinafter referred to as the “Property”, and being more particularly described as follows:

BEING the same lands, easements, privileges and appurtenances as described in the deed from Larry M. Evers and wife, Joy G. Evers to Christopher R. Southerland and wife, Theresa D. Southerland, and Patrick N. Martin and wife, Joanna Martin, dated 10 March 2006 and recorded in Deed Book C-30, Pages 859-862, Macon County Land Registry. For further reference see Deed Book H-30, Pages 55-59, Macon County Land Registry.

AND WHEREAS, it is for the mutual benefit of all homeowners, present and future, of the Preserve, for Declarant to subject said property as referenced hereinabove to the following Protective Covenants;

NOW, THEREFORE, Declarant does hereby declare that all of the properties referred to above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties, or any part thereof, their heirs, successors and assigns, for the term of these covenants as set forth below, and shall inure to the benefit of each holder thereof.

ARTICLE I

LAND USE AND BUILDING TYPE. No mobile homes, manufactured homes, travel trailers, camper trailers, motor homes, tents, boat or recreational vehicles shall be placed, constructed, used or permitted to remain upon the property; provided however, a recreational vehicle may be stored or parked in a garage upon said property provided the same is completely shielded from view.

All residences shall be log homes or timber frame, unless otherwise approved by an architectural committee (Architectural Control Committee) composed of two (2) or three (3) persons designated and appointed by Declarant or its successors in interest. In the event said committee fails to approve or disapprove such design within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the erection of such improvements or the making of such alterations has then commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to have been fully complied with. Members of such committee shall not be entitled to any compensation for services performed pursuant to this covenants.

No lot shall be used except for residential purposes, except that nothing herein shall preclude the use of any lot for a utility purpose for the benefit of the subdivision or access by the Declarant or its successors in interest, except that if any lot is purchased from the developer by an individual lot owner or builder, then said lot must be used for residential purposes only. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family dwelling, not to exceed two stories in height, exclusive of basement, and one small accessory building, which may include a private garage and RV garage, provided further that the garage shall not at any time be used for human habitation, either temporarily or permanently.

ARTICLE II

LOT SIZE. No lot shall be subdivided except with prior written approval of the Architectural Control Committee.

ARTICLE III

DWELLING SIZE AND DRIVEWAYS. No residential structure which has an area of less than one thousand four hundred (1,400) finished, heated square feet on the main level,

exclusive of porches, breezeways, steps and garages, shall be erected or placed or permitted to remain on any lot, except with prior written approval of the Architectural Control Committee.

All owners of lots shall install a culvert under their driveway at the intersection thereof with the existing road rights of way, which said culvert shall be a minimum of twelve (12) inches in diameter.

ARTICLE IV

BUILDING LOCATION. No building shall be located on any lot nearer to the front line than thirty (30) feet or nearer to the rear line than thirty (30) feet, or nearer to the side street than thirty (30) feet in the case of a corner lot. No building or garage shall be located nearer than thirty (30) feet from an interior lot line, and no other permitted accessory building shall be located nearer than thirty (30) feet to an interior lot line, nor nearer than thirty (30) feet from the rear lot line, nor nearer than thirty (30) feet from the front setback line. For purpose of this covenant, eaves, steps, chimneys and stoops shall not be considered part of a building. For purposes of this covenant, decks *shall* be considered part of a building. No portion of any building shall be permitted to encroach upon another lot. When two or more lots are improved as a unit, then and in that event, this restriction shall apply to the combined unit.

ARTICLE V

EASEMENTS. Easements for installation and maintenance of utilities, including but not limited to: electric and telephone poles, wires, cables, conduits, sewers, wells, water mains, and other suitable equipment for the transmission of electricity, telephone, gas, sewer, water and other public conveniences or utilities, and drainage facilities are reserved thirty feet (30') from the centerline of the road and fifteen feet (15') on all sides not adjoining the roadway. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retire the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority, Sequoyah Development, or utility company is responsible.

ARTICLE VI

NUISANCES. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the subdivision. No signs or billboards shall be stored or regularly parked on the premises, and no commercial trucks or tractors may be parked regularly upon the premises. No business activity or trade of any kind whatsoever, which shall include, but not be limited to, the use of any residence as a doctor's office, professional office of any kind, fraternity house, rooming or boarding house, antique or gift shop, the offering of any item for sale, the manufacture of any

item, repair shop, child care center, rest home, dog kennel, or any business office shall be carried on within the subdivision. No ATVs, dirt bikes or similar off road vehicles may be operated for recreational purposes upon any subdivision property/roads. No hunting shall be allowed on the lots.

ARTICLE VII

No fuel tanks or similar storage receptacles may be maintained on any parcel unless the same are installed within the principal dwelling or garage or are buried under ground, and in no event may the same be maintained so that they are visible from any place outside the parcel. Fuel tanks installed must be hidden from view.

ARTICLE VIII

TREES. No tree with a diameter in excess of 12 inches may be cut other than as necessary to accommodate construction of structures, drives, septic systems or should the tree be damaged by disease or lightning and pose a threat to the structures on that or an adjoining property. Said trees may be limbed to allow for view from the primary residence. Owners may ask adjoining land lot owners for permission to limb trees on adjoining lots to accommodate a view from their primary dwelling, at the owner requesting the trimming's expense. Should the adjoining lot owner refuse to allow said trimming, then the owner requesting the right to trim the trees may petition the Homeowners Association to mediate the matter and the Association's decision shall be binding on all parties. In any event, the cost of a tree trimming and any resultant damage shall be borne by the homeowner who requested it. Until the Homeowner's Association is formed, all decisions in reference to tree topping or removal shall be referred to the Declarant, and/or Architectural Control Committee.

ARTICLE IX

APPEARANCE. Each owner shall keep his building site free from tall grass, undergrowth, dead trees, trash and rubbish, and properly maintained so as to present a pleasing appearance within the subdivision. In the event an owner does not properly maintain his building site as above-provided, in the opinion of the Declarant, then Declarant (or its successors in interest), at its option, may have the site cleaned to its satisfaction, and the costs thus incurred shall be the responsibility of the lot owner. The costs of clean-up, if expended by the Declarant or its successors in interest, shall be a continuing lien upon the property until the sums due and payable are paid in full.

All trash, garbage, and waste shall be kept in a sanitary, closed receptacle provided by each lot owner in a screened area not generally visible from the road or from adjoining residences. Communication towers are expressly prohibited.. No inoperable motor vehicles may be parked on any lot if visible from any road within the subdivision. No exterior clotheslines shall be utilized.

ARTICLE X

ANIMALS. No livestock, poultry of any kind, or other animals, other than ordinary household pets, shall be kept or maintained on any part of said property. Household pets shall be kept on a leash or inside the residence at night and under such restraints so as not to become a nuisance or a threat to the other property owners, or their property, or to wildlife in the area when outside.

ARTICLE XII

CONSTRUCTION PERIOD. A bond or escrowed cash must be provided to the Association to assure road maintenance during construction and post construction road rehabilitation by the owner/builder. Prior to any construction, the owner shall pay the current year Association dues in full, and place in escrow a cash deposit of \$1,500.00 fully refundable when the following provisions are met. If construction continues into the following year, the Owner shall pay the Association dues in full within thirty (30) days of notification of said dues at the prevailing rate of that fiscal year.

No tracked construction equipment (dozer, track hoe, etc.) shall be allowed to traverse the road rights of way. When loading and unloading this equipment, it shall be as close to the construction site as possible. No construction equipment, vehicle, or trailer shall be parked or stored in the roadway to impede access.

Any damage done to the existing roadways shall be repaired the same day by proper grading and placement of crushed stone surfacing.

When construction has progressed to the point that heavy construction vehicles are no longer required and in any case prior to the Certificate of Occupancy, the permanent driveway shall be constructed from the existing roadway to the property. The ditch shall be maintained with a manufactured culvert of at least 12 inches in diameter. The pipe shall be placed to maintain the current natural drainage flow path.

At the time of Certificate of Occupancy, the roadways shall be regraded to achieve proper crown and covered with at least four (4) inches of dense graded crushed stone the full road width. The existing crushed stone surfacing shall be used in the calculation of the four (4") inches surfacing.

At the satisfactory completion of the above as judged by representatives of the Association, the cash deposit shall be released to the owner.

ARTICLE XII

RECOURSE. During construction, failure to comply with any of these provisions shall result in the immediate revocation of the right to use the Association roadways. The Association reserves the right to repair any damage to the roadways caused by the construction equipment or construction activities and to back charge these costs to the cash deposit.

ARTICLE XIII

TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded with the Macon County Register of Deeds office, and shall be automatically renewed for successive ten-year periods thereafter, unless altered or amended as hereinbelow addressed. These restrictive covenants may be altered or amended by the action of the owners of seventy-five percent (75%) of the parcels in the subdivision at any duly constituted meeting of the property owners if the notice of the meeting specifies the intention to alter or amend the restrictions at such meeting. Provided, however, no provision of this declaration which affects the rights, duties and obligations of the Declarant may be altered or amended without the consent of the Declarant.

ARTICLE XIV

ENFORCEMENT. Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, and the aggrieved party may request restraint of the violation or damages resulting from said violation.

ARTICLE XV

SEVERABILITY. Invalidation of any one of these covenants or any part thereof by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect, and the failure of any person or persons to take action to enforce these covenants shall not be construed as a waiver of any future enforcement rights.

ARTICLE XVI

MEMBERSHIP AND VOTING RIGHTS. Every owner of a lot which is subject to these Covenants shall be a member of Sequoyah Property Owners' Association. Membership shall be appurtenant to and may not be separated from ownership of any lot. Such membership is not intended to apply to those persons or entities holding an interest in any tract merely as security for the performance of an obligation to pay money, e.g., mortgages or deeds of trust; however, if such secured party should realize upon his security and become the fee owner of a tract, it and its assigns will be subject to all of the requirements and limitations imposed in these covenants on owners of tracts within the subdivision, including those provisions with respect to payment of annual assessments.

ARTICLE XVII

COVENANTS FOR MAINTENANCE ASSESSMENTS. The administration of the entrance signs and landscaping, including maintenance, repair and upkeep, shall be the responsibility of Sequoyah Property Owners' Association after the Declarant makes the initial construction and/or improvements thereto. There are hereby created contributions for maintenance expenses as may from time to time specifically be authorized by the Board of

Directors of the property owners' association, to be commenced at the time and in the manner set forth in this article. Each owner, by acceptance of a deed or a recorded contract of sale for any portion of the properties, is deemed to covenant and agree to pay these contributions. The contributions, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such contribution is made. Each such contribution, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who is the owner of such property at the time when the assessment fell due. The personal obligation for delinquent contributions shall not pass to his successors in title unless expressly assumed by them. The contributions levied by the association shall be used exclusively for improvement and maintenance of the signs and other easements located on each lot for the benefit of the property owners within the subdivision as a whole.

It shall be the duty of the Board of Directors, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated expenses of the association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with the budget separately prepared as provided herein. The base contribution to be levied against each lot for the coming year shall be set at a level which is reasonably expected to produce total income to the association equal to the total budgeted common expenses, including reserves. In determining the level of contributions, the Board, at its discretion, may consider other sources of funds available to the association. In addition, the Board shall take into account the number of lots subject to contribution on the first day of the fiscal year for which the budget is prepared and the number of lots reasonably anticipated to become subject to contribution during the fiscal year. In no event shall the maximum annual contribution be increased each year by more than five percent (5%) above the maximum contribution for the previous year, without a vote of the membership. The maximum annual contribution may be increased above five percent (5%) by a vote of two-thirds of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

The obligation to pay the contributions provided for herein shall commence as to each lot on the first day of the month following the conveyance of the lot to a person other than the Declarant. Contributions shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual contribution shall be adjusted according to the number of days remaining in the fiscal year at the time contributions commence as per this section. Contributions must be fixed at a uniform rate for all lots.

EFFECT OF NON-PAYMENT OF ASSESSMENTS. Any contribution not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The property owners' association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the contributions provided herein by non-use of his lot.

SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the contributions provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lots shall not affect the assessment lien; however, the sale or transfer of any lot pursuant to

mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any contributions thereafter becoming due or from the lien thereof.

IN TESTIMONY WHEREOF, the Declarant has caused this instrument to be executed in its corporate name by its President as of the day and year first above-written.

TCS MANAGEMENT, LLC

STATE OF _____
COUNTY OF _____

_____ a Notary Public of the County and State aforesaid, certify that _____, Manager of TCS Management, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official stamp or seal, this the _____ day of _____, 2006.

Notary Public
My Commission Expires: