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Buncombe County, NC
Otto W. DeBruhl Register of Deeds
BK **4218** PG **1559-1566**

RESTRICTIVE AGREEMENT COVER SHEET

Creative Quality Homes, LLC
Property Address- Lot 1, 3-9 Briar Ridge

Prepared by and return to- Robert P. Tucker, II, PA *Box 23*
66 N. Market Street
Asheville, NC 28801

STATE OF NORTH CAROLINA

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COUNTY OF BUNCOMBE

RESTRICTIVE AGREEMENT

THIS RESTRICTIVE AGREEMENT, made and entered into this ___ day Of January 2006 by Creative Quality Homes, LLC, a North Carolina Limited Liability Company (hereinafter "Developer"), as owner of Lot 1, 3-9 of Briar Ridge and the Future Owners of Lots as set forth on plat entitled Briar Ridge as recorded in Plat Book 1391 at Page 54 in the Buncombe County Register of Deeds Office.

WITNESSETH:

THAT WHEREAS, Developer is the over of a parcel of land described in Deed Book 1391 at Page 54, Buncombe county Registry (hereinafter "Property"); and

WHEREAS, said Property is further set forth on a plat entitled Briar Ridge as recorded in Plat Book ~~122~~ at Page 38 in the Buncombe County Registry, said property being described in Deed Book 1391 at Page 54, Buncombe County Registry.

WHEREAS, Developer desires for the benefit of future purchasers and lot owners to be created out of said Property that the Property shall be developed as a restricted subdivision and used exclusively as set forth:

NOW, THEREFORE in consideration of the premises and for the advantage which the Developer will receive from the sale of such lots in a restricted subdivision, Developer, for itself, its heirs, assigns and successors in title, covenants and agrees and hereby restricts the Property as follows:

1. Term: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2026 at which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by mutual consent of those persons claim through the Developer and those persons claiming through the Developer's Grantees, it is agreed to change said covenants in whole or in part.

2. Enforcement: If the parties hereto, or any of them or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for the Developer or a person or persons a successor in interest to the Developer or any other persons owning any residential lot in the subdivision to prosecute any proceedings at law or in equity against the person or persons attempting to violate any such covenant and either to prevent him or them from doing so, or to recover damages for such violation. However, it is expressly understood and agreed that the Developer or his designated agent or agents (which agents my include a duly

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appointed or elected committee of homeowners in the residential subdivision in the event such a committee is activated in the future) shall and does have the right to waive, by written instrument, any unintentional violation of any side or front building setback lines. It is understood and agreed that such waivers are to be in the sole discretion of the developer or its agent or agents and there shall be no requirement of approval or joinder from any other person, corporation or entity especially including any owner or lien holder of any lot or lots of the property.

3. **Validity:** Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

4. **Residential Use:** Property shall be used solely for single-family residential purposes. Only one single-family residence shall be built upon any lot within Property or upon any hereinafter permitted combinations of lots or portions thereof. No owner will erect, license, or suffer to be erected or maintained on Property or any part thereof, any commercial or manufacturing structure, factory, apartment house, lodging house, rooming house, hospital, sanitarium or multi-unit dwelling. Any in home business or commercial activity must be approved in writing by the Developer or his assigns. Rejection or acceptance is at the sole and absolute discretion of the Developer or his assigns.

5. **Construction:** No construction shall be initiated on any lot and no building, apartment structure or other improvement, including fencing, shall be erected, placed, or altered on any lot until the specifications, or plot plan showing the proposed location of such building, structure, driveways and/or parking areas, construction schedule and licensed general contractor shall have been approved in writing by Developer or by a committee or association of homeowners, their successors and assigns. Rejection or acceptance of any proposal shall be based primarily on the requirements of these Restrictive Covenants; however, rejection of plans, locations, or specifications may be based upon purely aesthetic considerations which Developer, in its sole and absolute discretion, shall deem sufficient. No alternations may be made in any such proposal for improvements or construction after approval is given by Developer, except by and with the written consent of Developer. No alterations in the exterior appearance of an building or structure shall be made without like approval by Developer. One copy of all plans, specifications, and other data related to the proposal shall be furnished to Developer for its records.

6. **Subdivision:** The property shall not be re-subdivided so as to create any additional building lots. Where a residence has been erected or placed on a lot consisting of two lots, neither of the said lots shall be sold thereafter separately if such sale would result in a violation of Paragraph 13 herein.

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7. Use: No trade or business and no noxious or offensive activities shall be carried on upon the Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No animals, livestock or poultry may be kept on any lot. All dogs or cats must be confined to the owner's residence and may not be kept or maintained for commercial purposes. No more than two (2) dogs shall be permitted to be maintained on any lot. No dogs are permitted on chains or runners.

8. Appearance: No building shall be erected with exteriors of exposed cinder blocks, and no building shall be built where the siding thereof shall consist of asbestos shingles or aluminum. There shall be no prefabricated buildings or structures placed upon lots within the Property except prefabricated components of buildings or structures such as window units, door unites, roof trusses, or cabinet units, which shall be permitted. Modular must be purchased thru Creative Quality Homes, LLC. Modular homes which in Developer's sole discretion have been determined to be compatible with other buildings shall be permitted with written approval of Developer or his assigns. Developer reserves the right to modify and/or amend this paragraph to adapt the development of Property of future residential development standards. It shall be the responsibility of each lot owner within Property to prevent the development of any unclean, unsightly, or un-kept conditions as to buildings or upon the ground of a lot which shall tend to substantially decrease the beauty and attractive appearance of the neighbor within the Property.

9. Vehicles: No tent, garage, utility building, travel trailer, or other outbuilding placed or erected on the Property shall at any time, be treated as a residence, temporarily or permanently. Futhermore, there shall be no trucks or mobile equipment larger than one (1) ton kept on the Property. No vehicle shall be parked or stored outside unless it is in a drivable condition and regularly used and licensed. No allterrian vehicles, dirt bikes, or other such devices may be operated within the Property. The owner of each lot shall provide off street parking for at least two (2) vehicles. Parking on the streets of the subdivision will not be permitted except during times when the normal parking facilities will not accommodate all vehicles owned by people visiting said property.

10. Temporary Structures: No mobile home, trailer, basement, tent, shack, or other out buildings placed or erected on Property shall be used at any time as a residence, temporarily or permanently.

11. Square Footage: The total minimum floor area of any residence on any of the lots shall be not less than 1400 square feet of enclosed heated living space on the ground level of a one story residence. Any multi-story residence constructed on any

lot shall contain not less than 750 square feet of heated space on the ground floor. Any multi-story residence containing less than two (2) full stories shall nonetheless contain not less than 1600 square feet of heated living space on all levels. Developer reserves the right to grant variances of the square foot requirements as set forth in this paragraph by filing an instrument granting such variance in the office of the Register of Deeds for Buncombe County, North Carolina. Basements shall not be considered a "story" for the purposes for this paragraph. Lot 2 is an exception, as house is already on the lot.

12. **Hunting:** No hunting shall be allowed within the Property.

13. **Setbacks:** No building shall be located nearer than twenty-five (25) feet from the front street lot lines and ten (10) feet from any side lot line. Open porches, caves and overhangs shall not be considered in determining compliance with these setbacks requirements unless prior approval from the Developer.

14. **Signage:** No sign of any kind shall be displayed on the Property other than one sign not more than five (5) feet in size offering the Property for sale. Nothing in this paragraph shall prevent Developer from erecting an entrance display sign.

15. **Utility Easements:** Easements ten (10) feet in width are reserved around all lot lines and effecting all lots of the Property for installation and maintenance of utilities and drainage facilities of the Property and adjacent property. Neither Developer nor any utility company using the easement herein referred to shall be liable for any damage done by them to shrubbery, trees, or flowers, or to the property of the owner situated on the land covered by said easement in the installation, maintenance or replacement of any such utilities or drainage facilities. The Developer further reserves the right to subject the Property to a contract with Progress Energy for the installation of street lights which may require an additional payment and/or a continuing monthly payment to Progress Energy by the owner of each residence within Property or by the Homeowner's Association hereinafter established.

16. **Joinder of Lots:** In the event a dwelling is placed on the interior boundary of two (2) lots then the setback requirements and easements contained in paragraphs 13 and 15 shall be waived in regard to that dwelling and said interior boundary shall be of no force or effect.

17. **Trash:** The Property shall not be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. Unsightly objects, all garbage, and trash containers which are kept upon my lot within Property must not be visible from adjoining lots or from any road rights of way shown on the aforesaid Plat of Property. No fuel tanks, bottled

gas tanks, or similar storage receptacle may be exposed to view on my lot within the Property. Nothing contained herein shall prevent the placing of building materials on a lot during the period of time that a house is being constructed therein.

18. **Grass and Weeds:** Grass and weeds are to be kept down on the Property to prevent an unsightly and unsanitary condition. This is an obligation of the lot owner and is to be done at the lot owner's expense.

19. **Fences:** No hedge, fence or wall shall be erected or planted within the street right of way without the written approval of the Developer or its authorized successors or agent. No fence, hedge or wall shall be erected on the remaining portion of a residential lot which shall give undue offense to owners of adjoining lots, which shall be unsightly in the opinion of the Developer, or which shall in any way interfere with vision of all streets so as to endanger the safety of pedestrians or drivers of vehicles.

20. **Driveways:** Driveways, entranceway and parking areas serving residential improvements on said lots shall be of 4" inch concrete or 1 ½ "inch Asphalt.

21. **Completion of Construction:** All outside construction work grading, landscaping and clean-up of unused material shall be completed within twelve (12) months of the start or waiver provision as stated in paragraph 2 and 11 shall apply, but absent said waiver this paragraph shall be strictly enforced.

22. **Wells:** No wells shall be placed in a location to inhibit septic system locations and well placement sites shall be approved in writing by the Developer or his assigns.

23. **Clear Cutting:** The clear cutting of trees on any lot is prohibited, except when such cutting has been approved by Developer in conjunction with the construction of improvements on a lot within Property. Selective cutting of trees is not prohibited; provided no trees with a diameter of more than eight (8) inches (measured 18 inches from ground level) shall be cut without the express prior consent of Developer.

24. **Satellite Dishes:** No television or communication satellite dishes larger than twenty-four (24") inches in diameter shall be permitted on Property, and no radio tower transmitters on a lot shall be allowed to extend above the highest peak or point of the roof of the residence of such lot.

25. **Road Maintenance:** Developer hereby grants unto itself and the future owners of Lots 1 through 9 within the Property a non-exclusive easement for

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perpetual ingress, egress and regress along the private roads within the Property. The street rights of way shown on Plat shall be constructed by Developer and maintained as private streets. Until such time as appropriate action may be taken to obtain acceptance and approval of said streets into the State Highway System, it shall be the responsibility of the owners of lots within Property to maintain the streets and the costs of such maintenance shall be pro-rated equally among each lot owner, each lot (or lot combined as allowed in paragraph 16 to be subject to one maintenance share. These private roads shall be maintained as roads passable in all weather conditions.

Any recorded owner of any lot within the property served by the private roads shall have the right to enforce maintenance standards by sending by registered or certified mail, return receipt requested, written notice of all proposed maintenance, the cost thereof, and the time and place of meeting (said meeting to take place to less than thirty (30) days following the mailing of such notice) to all record owners at their last known addresses disclosed by the buncombe County Tax Listing. At the record owner's meeting, each record owner shall have one vote for each lot owned, but in no event shall any lot or any subdivision thereof have more than one vote, regardless of the number of record owners. A majority of the votes cast in person or by signed proxy at a record owners meeting is required for the approval of all maintenance. Further, at such meeting, the record owners by a majority of the votes case in person or by signed proxy, shall select an agent to contract the maintenance work. Each record owner shall bear, on a pro rata basis, the cost of maintaining the private roads within the Property, including out not limited to patching, paving, grading, adding gravel or rock to fill ruts, holes and washed out sections and doing any other needed maintenance. Maintenance as the term is used in this Agreement, shall not include improvements to the roads beyond their condition as constructed and shall not mean or refer to widening, landscaping, or any upgrading. Each record owners pro rata share shall be due and owing to the elected agent within ten (10) days, said cost may be reduced to judgment and shall become a lien on the land of the defaulting owner. Notwithstanding any vote at the record owners meeting, nothing in this agreement shall be construed as denying any owner the right to ensure that the private roads within the Property are maintained.

26. **Homeowner's Association:** it is hereby expressly understood and agreed that each owner of each lot in this Subdivision agrees to and shall be a member of and be subject to the obligations and duly enacted By Laws of any Homeowner's Association which shall be established by the Developer after the sale of all of the lots of the Property.

27. **Appurtenances:** The parties agree that the rights and easement granted hereby are appurtenant to and run with the lands of each of the respective lots owners referenced herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives effective as of the day and year first above written.

Creative Quality Homes, LLC
Katherine Crowder, Member Manager

By: Thomas Crowder, Mbr. Mgr.
Katherine Crowder, Mgr.

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

The undersigned, a Notary Public for said County and State, does hereby certify that Katherine Crowder personally appeared before me this day and acknowledged that he is mbr. mgr. of Creative Quality Homes, LLC a North Carolina Limited Liability Company, the foregoing instrument was signed in the name of the corporation. Witness my hand and Notarial Seal, this 4.25, 2006, 2006.

My Com. Exp. 10.22.06
(Notarial Seal)

Tracey C. Moore
Notary Public Tracey C. Moore
OFFICIAL SEAL
Notary Public, North Carolina
COUNTY OF BUNCOMBE
TRACEY C. MOORE
My Commission Expires October 22, 2006

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

The undersigned, a Notary Public for said County and State, does hereby certify that _____ personally appeared before me this day and acknowledged that he is _____ of Creative Quality Homes, LLC a North Carolina Limited Liability Company, the foregoing instrument was signed in the name of the corporation. Witness my hand and Notarial Seal, this _____, 2006.

My Com. Exp. _____
(Notarial Seal)

Notary Public