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FOR REGISTRATION REGISTER OF DEEDS
Stephanie A. Norman
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**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, RESERVATIONS AND
RESTRICTIONS OF
OLD OAKS ESTATES**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, RESERVATIONS AND RESTRICTIONS OF OLD OAK ESTATES (herein the "First Amendment") is made this day by K.M. PROPERTIES, LTD, DBA under the assumed name of MCS of NC Ltd. Partnership, Declarant of Old Oaks Estates, hereinafter referred to as "Declarant";

RECITALS:

WHEREAS, Old Oaks Estates Subdivision is subject to those Covenants, Reservations and Restrictions recorded in Book 1872, Page 389, Burke Registry;

WHEREAS, this subdivision is subject to the provisions of Chapter 47F of the North Carolina General Statutes, captioned "North Carolina Planned Community Act";

WHEREAS, the Covenants, Reservations and Restrictions recorded in Book 1872, page 389, Burke Registry, consistent with the provisions of the North Carolina Planned Community Act, provide that while

Declarant owns any lot or adjoining land, Declarant shall have the right to waive, amend, or modify the declaration, to add land to or withdraw land from the subdivision, to revise the subdivision plat as to any unsold lot or the routes of any subdivision roadway, to dedicate additional common areas, to grant easements and rights of way which benefit the association, or to grant variances from the restrictions contained in the Declaration as to any lot or lots;

WHEREAS, the powers reserved to the Declarant are not inconsistent with the provisions regarding amendment of declaration when the terms of the Declaration allow the Declarant to make amendments;

WHEREAS, the Declarant, who continues to own lots in the subdivision and other lands adjoining the subdivision, has the power and authority to make amendments to the declaration, to add land to the subdivision, and to dedicate additional common areas;

WHEREAS, pursuant to the power and authority reserved to the Declarant in the Covenants, Reservations and Restrictions recorded in Book 1872, Page 389, Burke Registry the provisions of the North Carolina Planned Community Act, and not inconsistent with the provisions of the Planned Community Act the following amendments to the Declaration are hereby made:

A. Article I, captioned "Old Oaks Subdivision" is deleted, and replaced by the following definition:

The real property which is and shall be held, transferred, sold and conveyed subject to this Declaration is located in Burke County, North Carolina, and is more particularly described as follows:

All of Lots of the subdivision named Old Oaks Estates. Lots one (1) through seventy (70) are more fully shown on that certain plats prepared by Fred C. Howell, P.L.S. L-1483, dated November 9, 2009, recorded in Plat Book 39, Pages 25, 27, 29 and 31. Lots 71-84 are an addition to the original subdivision, to be known as "The Reserve at Old Oaks Estates", located along subdivision streets Shannon Drive and Old Oaks Farm Road. The plat for these lots will be recorded. Lots R1-R14 are an addition to the original subdivision, to be known as "The Rendezvous at Old Oaks Estates". These lots are located as an extension of Table View Drive. The plat for these lots will be recorded.

B. Article II, captioned "Definitions", is amended to include new paragraphs 10 and 11 as follows:

New paragraph 10 of Article II. The landscape easement identified on Plat Book 39, Page 27-28, Lots 1, 69 and 70 is considered a common element.

New Paragraph 11 of Article II. The guard house, entrance gate and entrance columns are considered a common element.

C. Article IV, captioned "Protective Covenants" is amended as follows:

New paragraph 2 of Article IV. No residence shall be erected, constructed, maintained, used or permitted to remain on any Lot other than one single-family dwelling. Any residence must be approved by the Architectural Control Committee (hereinafter "ACC") and follow the guidelines set forth in this declaration. Each residence to be constructed on a Lot shall have a minimum finished heated and cooled area of 1,600 square feet for a single level residence and 2,000 square feet for a two-level residence, with a minimum of 900 square feet on the

first floor or level of the home built above the basement of the house. For the purpose of this clause, a home with an open loft shall be considered a single level home, but the area of the loft may not be included in the minimum 1,600 square feet. On a multi-level structure, a full walk-out basement can be considered part of the square footage if it is heated space, has a permanent floor (i.e. poured cement, etc.) and has minimum ceiling height of eight (8) feet through the entire basement square footage, however the basement cannot and will not be considered as the first floor of dwelling. Once construction has begun on said dwelling, all exterior construction must be completed within one (1) year of the commencement of construction.

The Reserve Section (to be identified as Lots 71-84) of Old Oaks Estates and any other streets or areas accessed through The Reserve are subject to the following: Each residence to be constructed on a Lot shall have a minimum finished heated and cooled area of 2,000 square feet for a single level residence and 2,400 square feet for a two-level residence, with a minimum of 1400 square feet on the first floor or level of the home built above the basement of the house. For the purpose of this clause, a home with an open loft shall be considered a single level home, but the area of the loft may not be included in the minimum 2,000 square feet. On a multi level structure, a full walk-out basement can be considered part of the square footage if it is heated space, has a permanent floor (i.e. poured cement, etc.) and has a minimum ceiling height of eight (8) feet throughout entire basement square footage, however the basement cannot and will not be considered as the first floor of dwelling.

Amended Paragraph 8 of Article IV. There shall be no single-wide mobile or on-frame manufactured homes, no double-wide mobile or manufactured homes, no

previously constructed homes, buses or systems-built homes situated on any Lot as a residence or for storage, either temporarily or permanency. Any improvement or construction of any kind must be approved by the ACC before any site work has started.

Amended Paragraph 17 of Article IV. No trade, commerce or other activity which may be considered a nuisance to the neighborhood may be carried on upon any Lot. It is permissible to operate a home-based business. No trade materials or inventories may be stored upon any Lot and no tractor trailer type trucks, house trailers or mobile homes may be stored or regularly parked on any Lot. No junk or unsightly vehicles of any type or description or unsightly buildings may be placed upon any Lot. Home-based businesses shall be allowed to store small inventories within the residence or enclosed outbuildings situated on the Lot. No advertisements or signage of any kind will be permitted on any Lot for home-based business.

New Added Paragraph 19 of Article IV. Short term vacation rentals are allowed in Old Oaks Estates. Vacation property must be registered and approved by the Owners Association. Property owners must comply with the following vacation rental rules:

Occupancy is limited to two people per Burke County permitted bedroom.

Parking is limited to two cars and must be parked in driveways.

Owner is responsible for guest gate access codes.

Owner is responsible for any damages of common areas or roads by guest.

Guests may not operate any golf carts, four wheeler, or other recreational vehicles within the community.

Guests may not have any trailer or hauler of any

type in the community.

Failure to comply with the above rules will result in a revocation of approval as a vacation rental.

D. Article V, captioned "Architectural Control and Standards" is amended as follows:

Amended Paragraph 2 of Article V. An impact fee of \$1,000 for extra wear and tear upon the roads within Old Oaks Subdivision attributable to construction of improvements on any lot must be paid to the Association upon issuance of a building permit from Burke County. If damage and/or wear and tear attributed to construction of such improvements is determined by the ACC to exceed \$1,000, then said property owner will be liable for any costs over and above the minimal \$1,000 impact fee.

Amended Paragraph 3 of Article V. The term "Improvements" shall be identified by the ACC and will generally mean and include structures and construction of any kind, whether above or below the land surface, such as, but not limited to, buildings, outbuildings, water lines, sewers, electric, and gas distribution facilities.

Amended sub part regarding building standards under Article V. The following are "Building Standards" as created by the Old Oaks Subdivision ACC:

Building type. All building types must be approved by the ACC.

Amended sub part regarding Exterior under Article V:

Exterior. All fencing must be approved by the ACC before installation.

E. Article VII, captioned "Executive Board Powers and

Duties", paragraph 6, is amended as follows:

Amended paragraph 6 of Article VII.

Notwithstanding any provision to the contrary, no action of the association or the executive board, including the proposal or approval of any budget, shall be effective to raise annual assessments by more than fifteen percent (15%) unless such budget or assessment increase shall be ratified by the affirmative vote or a majority of the lot owners present in person or by proxy at an annual or special meeting called for the purpose of considering such increase, and at which a quorum is present.

F. Article IX, captioned "Assessment for Commons Expenses, paragraph 1, is amended as follows:

Amended Paragraph 1 of Article IX. Except as provided in NCGS 47F-3-115, common expenses shall be assessed against all lots equally, except that no assessment shall be made on any lot owned or beneficially controlled by the declarant. Until the Association shall make a different common expense assessment, the annual assessment for common expense shall be \$400 per lot per year, pro rated for the remaining portion of any given year when a lot is purchased from declarant.

EXCEPT AS MODIFIED HEREIN, the DECLARATION OF COVENANTS, RESERVATIONS AND RESTRICTIONS OF OLD OAKS ESTATES shall continue unchanged and shall remain in full force and effect, and the parties hereto agree for themselves, their heirs, successors and assigns agree to be bound by the Declaration as herein amended.

In Witness Whereof, the Declarant, has executed this First Amendment to declaration of Restrictive Covenants effective this the 3rd day of November, 2023.

K.M. Properties, LTD, d/b/a
MCS of NC Ltd. Partnership
By: [Signature] (SEAL)
Printed name: MATTHEW C SCHULTE
Title: GENERAL PARTNER

NORTH CAROLINA
BURKE COUNTY

I, Melanie Rodriguez Serrano, Notary Public, do hereby certify that Matthew Schulte of K.M. Properties, LTD, dba MCS of NC Ltd. Partnership, the Declarant, and by authority duly given and as the act of such entity, he signed the foregoing instrument in its name and on its behalf as its act and deed.

Witness my hand and official seal this the 3rd day of November, 2023.

Melanie Rodriguez Serrano

Notary Public

Melanie Rodriguez Serrano
Printed name Serrano

My Commission Expires:

2/21/20

