

PREPARED BY AND AFTER RECORDING HOLD FOR:
BRADY, SCHILAWSKI, EARLS AND INGRAM

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
TATTON PLACE HOMEOWNERS ASSOCIATION, INC.

THIS DECLARATION, is made on the date hereinafter set forth by SAS Institute, Inc./b/a Preston Development Company, with its principal place of business in Wake County, North Carolina hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Wake, State of North Carolina, which is more particularly described as follows:

TRACT I: BEING all of Lots 1 through 3, inclusive, and 60 through 63, inclusive, Phase 1, Section One, Tatton Place, as shown on map recorded in Book of Maps 1996, Page 581, Wake County Registry.

TRACT II: BEING all of that tract or parcel containing .080 acre and shown as "Common Open Space" on that map of Phase 1, Section One, Tatton Place, recorded in Book of Maps 1996, Page 581, Wake County Registry.

TRACT III: BEING all of that tract or parcel containing .074 acre and shown as "Common Open Space" on that map of Phase 1, Section One, Tatton Place, recorded in Book of Maps 1996, Page 581, Wake County Registry.

PREPARED FOR REGISTRATION

SO MAY 15 AM 9:05

KENNETH C. WILKINS
REGISTER OF DEEDS
WAKE COUNTY

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WHEREAS, it is the intent of the Declarant hereby to cause such land to be subjected to this Declaration of Covenants, Conditions and Restrictions.

NOW, THEREFORE, Declarant hereby declares that all of the property described 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, such real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

SECTION 1. "Association" shall mean and refer to Tatton Place Homeowners Association, Inc., its successors and assigns.

SECTION 2. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 4. "Common Area" shall mean all real property and easement rights owned by the Association for the common use and enjoyment of the Owners. Said "Common Area" shall include but may not be limited to, that tract described as:

Declarant reserves the right, in its sole discretion, to convey from time to time additional property to the Association, which property may include all or any portion of the Properties, including any additional land annexed by Declarant pursuant to Article IX, Section 4 hereof and the Association shall accept any such conveyance of additional property and thereafter such additional property shall be held and maintained by the Association as Common Area. Improvements, which may include, but shall not be limited to, roadways, retention or detention ponds or erosion control devices, may be located on such additional Common Area.

SECTION 5. "Member shall mean and refer to every person or entity who holds membership with voting rights in the Association.

SECTION 6. "Declarant" shall mean and refer to SAS Institute, Inc. d/b/a Preston Development Company, a North Carolina corporation, as well as its successors and assigns, if Declarant shall make an express conveyance or its rights as developer hereunder to such successor or assign.

SECTION 7. "Lot" shall mean and refer to any separately numbered plot of land shown upon any now or subsequently recorded subdivision map of the Properties with the exception of the Common Area. Declarant hereby reserves the right to reconfigure, from time to time and without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant and to thereby create additional Lots, eliminate existing Lots or create additional Common Area. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots. Upon the recording by Declarant of such a revised plat, each Lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration and each newly configured Lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

SECTION 8. "Family Dwelling Unit" shall mean and refer to any improved property or any property formally classified as a Lot for which a Certificate of Occupancy has been

issued by the appropriate governmental authorities, which property is located within the Properties and intended for use as a single-family dwelling.

ARTICLE II
PROPERTY RIGHTS

SECTION 1. OWNERS' EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations;

b. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by the Members entitled to cast at least two-thirds (2/3) of all the votes of each class, agreeing to such dedication or transfer, has been recorded.

c. the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area;

d. the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities thereon; and

e. the right of the Association to exchange portions of Common Area with the Declarant or with any Owner for substantially equal areas of the Properties for the purpose of eliminating unintentional conveyances of Common Areas or unintentional encroachments of improvements onto portions of the Common Areas or for the purpose of enhancing the

utility of the Common Areas to be retained by the Association or for the purpose of correcting any setback violations or encroachments of any improvements located on any Lot.

SECTION 2. DELEGATION OF USE. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment of the Common Area and facilities to the Members of his family, his tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 3. LEASES OF LOTS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and By-Laws of the Association and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing. Other than the foregoing there is no restriction on the right of any Owner to lease his Lot.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

SECTION 1. The voting Members of the Association shall be the Class A Members and the Class B Members defined below.

SECTION 2. The Association shall have two (2) classes of voting membership:

Class A. The Class A Members shall be every person or entity who or which is a record Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, except Declarant during the period Declarant is a Class B Member as defined below. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation. Such membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Class A Members shall be entitled to one (1) vote for each Lot

owned. When more than one person holds an 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 vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant and Declarant shall be entitled to three (3) votes for each Lot it owns shown on the Plan for "Tatton Place Development" approved by the Town of Cary or other appropriate local authority, as that Plan is from time to time amended and approved. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; however, the Class B membership shall be reinstated if thereafter, and before the time stated in subparagraph (b) below, the Plan for "Tatton Place Development" is amended to add additional Lots sufficient to give the Class B membership a total number of votes [with the Class B membership entitled to three (3) votes for each Lot owned] to exceed those of the Class A membership and the amended Plans are approved by the Town of Cary or other appropriate local authority; or,

(b) Seven (7) years from the date this Declaration is recorded in the Office of the Register of Deeds, Wake County, North Carolina.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay: (a) to the

