

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

AGREEMENT TO AMEND DECLARATION OF COVENANTS, RESTRICTIONS  
AND EASEMENTS FOR BRANDYWINE BAY DEVELOPMENT  
(THE HONOURS SUBDIVISION)

This Agreement is made for purposes of reference the 16<sup>th</sup> day of March, 2009 by and between the undersigned Owners of Lots within that area of the Brandywine Bay development known as the "Honours" which Lots are subject to the "Amended and Restated Declaration of Covenants and Restrictions - Brandywine Bay Development (North Kerr Properties, Inc. Tract), dated February 15, 1988, recorded in Book 590, Page 171, Carteret County Registry. Brandywine Owners Association, Inc., (the "Association") a North Carolina non-profit corporation established in accordance with the provisions of the "Declaration of Covenants and Restrictions..." recorded in Book 435, Page 362, and as referenced in the "Amended and Restated Declaration ..." recorded in Book 590, Page 171, Carteret County Registry, joins in the execution of this Agreement.

STATEMENT OF EXPLANATION

By a document titled "Amended and Restated Declaration of Covenants and Restrictions - Brandywine Bay Development (North Kerr Properties, Inc. Tract)" dated February 15, 1988, recorded in Book 590, Page 171, and amended by documents recorded in Book 591, Page 46; Book 597, Page 198; Book 619, Page 232; Book 639, Page 452; and Book 696, Page 98, certain properties, all of which are located in that area of the Brandywine Bay Development known as the "Honours," were made subject to the terms and conditions of the declaration of covenants and restrictions recorded in Book 590, Page 171. *(As used in this Agreement the "Amended and Restated Declaration of Covenants and Restrictions - Brandywine Bay Development (North Kerr Properties, Inc. Tract)" recorded in Book 590, Page 171, and the amendments thereto recorded in Book 591, Page 46; Book 597, Page 198; Book 619, Page 232; Book 639, Page 452; and Book 696, Page 98, are collectively referred to as the "Honours Declaration.")*<sup>1</sup> The undersigned Owners are a majority of the owners of property to which the Honours Declaration applies.

The Association administers various restrictions and covenants in the various sections of the Brandywine Bay Development and, for efficiency and ease in application of the restrictions and covenants, has requested that the Owners in

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<sup>1</sup> An effort to amend the Honours Declaration was made in a document titled "Amendment to Declaration . . ." dated November 28, 2005 recorded in Book 1145 at page 236, Carteret County Registry, however, the Association has determined that said document is not enforceable.

Honours approve amendments to the Honours Declaration that will promote more consistency between the restrictions and covenants applicable in the Honours area and those applicable in Sections I and Sections II of the Brandywine Bay Development.<sup>2</sup> Additionally, while the Honours Declaration has provided a basic framework for the development and use of properties within the Honours area of Brandywine Bay, the Association and the undersigned Owners have identified additional covenants and restrictions that will give Lot Owners a clear understanding of their joint responsibilities in the Brandywine community, and such restrictions are included herein.

By signing below, it is the intent of each Owner to enter an agreement to change the provisions of the Honours Declaration as provided herein.

#### AMENDMENT TO DECLARATION

NOW, THEREFORE, the undersigned Owners, being a majority of the owners of property to which the Honours Declaration applies, agree that the provisions of said Honours Declaration are changed and amended as follows. *(The specific references below to articles and section numbers are to those contained in the "Amended and Restated Declaration of Covenants and Restrictions – Brandywine Bay Development (North Kerr Properties, Inc. Tract), dated*

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<sup>2</sup> Most of the amendments in this Agreement are included in declarations of restrictions and covenants, or purported amendments thereto applicable in Sections I and II of the Brandywine Bay Development; however, the procedures used to adopt certain of the amendments for these sections in 1984 and 1987 have been questioned and the owners in those sections are considering ratification of the restrictions and covenants the Association has determined to be important to the common good in the Brandywine community.

February 15, 1988, recorded in Book 590, Page 171, Carteret County Registry which is the original declaration for that area of Brandywine Bay known as the "Honours" and which is one of the documents included in the "Honours Declaration.")

1. Article IV, Section xi, "Mobile Vehicles and Buildings" is re-written to read as follows:

Section xi. Mobile Vehicles and Buildings.

These covenants shall not be interpreted to allow inclusion on any Lot of a temporary building, including but not limited to, any tent or any other non permanent structure. In addition, no motor home including recreational vehicle ("RV"), camp trailer, utility trailer, boat trailer, or boat, personal watercraft (PWC), jet ski, or all terrain vehicle (ATV) shall be allowed on any Lot for a period of time exceeding one successive week; in addition at least one week must elapse between the removal of any such device, and the relocation on the Lot for an additional one week of such device.

2. In Article IV, a new Section xii shall be added as follows:

Section xii. Recreational Equipment

Recreational equipment, including but not limited to basketball goals, swing sets, sandboxes, and tennis backboards will be allowed on Lots when approved by the Architectural Control Committee.

3. In Article IV, a new Section xiii shall be added as follows:

Section xii. Prohibition of Nuisance.

No noxious or offensive activities shall be carried on upon any Lot, nor shall anything be done thereon, nor allowed to exist thereon, which may become an annoyance or nuisance to the neighborhood.

4. In Article V, Section i, subsection (b) delete the word "animals" from the second paragraph which paragraph begins "All complaints pertaining to . . . ."

The amendments approved herein shall be effective upon the recording of this document at the Carteret County Registry. Except as amended above, the provisions of the Honours Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have signed this instrument.

BRANDYWINE OWNERS' ASSOCIATION, INC.

(corporate seal)

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

Attest:

\_\_\_\_\_  
Secretary

State of North Carolina

County of Carteret

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_ personally came before me this day and acknowledged that she is Secretary of Brandywine Owners Association, Inc. a North Carolina non-profit corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by herself as Secretary.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2009.

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

My Commission Expires: